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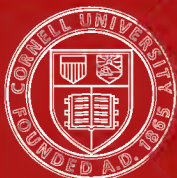
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**Lives of the Lord Chancellors and Keepers**



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L I V E S  
OF  
THE LORD CHANCELLORS  
AND  
KEEPERS OF THE GREAT SEAL  
OF  
ENGLAND,

FROM THE EARLIEST TIMES TILL THE REIGN OF KING GEORGE IV.

By JOHN LORD CAMPBELL, LL.D., F.R.S.E.

*FIFTH EDITION.*

IN TEN VOLUMES.—Vol. VII.

LONDON:  
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# L I V E S

## OF THE

### LORD CHANCELLORS OF ENGLAND

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#### CHAPTER CXLV.

CONTINUATION OF THE LIFE OF LORD CAMDEN TILL HE WAS FIRST  
APPOINTED PRESIDENT OF THE COUNCIL.

PASSING over for the present the intrigues for the disposal of the Great Seal, which accompanied and followed Lord Camden's resignation of it, we must now regard him as an <sup>A.D. 1770.</sup> opposition leader, banded with Lord Chatham, Lord Rockingham, and other Whig Peers, strenuously to resist the measures of the new Government with Lord North at the head of it. At the commencement of their operations he was placed rather in an awkward predicament in a debate which arose on Lord Marchmont's famous midnight motion,\* "that any interference of the Lords respecting the Middlesex election would be unconstitutional." Lord Chatham having bitterly reflected on the measures of the Government respecting Wilkes, Lord Sandwich took occasion to charge the late Chancellor with duplicity of conduct, because he had permitted those proceedings which had given so much disgust, and which he and his friends now so loudly condemned. Lord Camden answered him, by declaring upon his honour, "that long before Mr. Wilkes's expulsion, and also before the vote of incapacity, on being asked his opinion by the Duke of Grafton, he had pronounced it both illegal and imprudent,"—adding that "he had always thought so, and had often delivered his opinion to that

\* It was on this occasion that Lord Chatham wounded, let it not receive its mortal stab as exclaimed "if the constitution must be this dark and midnight hour."

effect.”<sup>b</sup> The Duke of Grafton, however, declared that although the Chancellor had once before the expulsion said it would be impolitic or ill-timed, he never had expressed his sentiments on the vote of incapacity, but whenever that subject was agitated he had withdrawn from the council board, thereby declining to give any opinion upon it; and Lord Weymouth, another member of the Cabinet, asserted that the Chancellor had withheld his advice and assistance from his colleagues on every mention of expulsion and incapacity:—

*Lord Camden.* “Before the silence to which the noble Lords allude, I had repeatedly given my opinion upon the impropriety of the measures we have been discussing. But when I found that my opinion and my advice were rejected and despised, and that these measures were to be pursued in spite of every remonstrance I could make, I did withdraw myself—under the conviction that my presence would only distract, without preventing them. I was never farther consulted upon them directly or indirectly, because my opinion was well known—but I was ever ready to express my opinion boldly and openly on every question debated in council, and humbly, but firmly, to give my best advice to my Sovereign for the public good.”<sup>c</sup>

When Lord Chatham introduced his bill for reversing the decision of the House of Commons which disqualified Mr. Wilkes, and seated Mr. Luttrell as member for Middlesex, Lord Camden warmly supported it against the vigorous attacks of Lord Mansfield. After stating the course pursued, he thus proceeded:—

“What, then, hindered the House from receiving Mr. Wilkes as their member? I am ashamed to guess at it,—merely because they would act in an arbitrary, dictatorial manner, in spite of law or precedent, against reason and justice. A secret influence had said the word—‘*Mr. Wilkes shall not sit,*’ and the *fiat* was to be obeyed, though it tore out the heart-strings of this excellent constitution. The judgment passed upon the Middlesex election is a more tyrannical act than any which disgraced the twelve years’ suspension of parliaments in the reign of Charles I.; and, though this bill may be rejected (as we are all sensible how a majority can supersede reason and argument), I trust in the good sense and spirit of the people of this country—that they will renew the claim of their inherent and inalienable right to a true and free representation in parliament.”<sup>d</sup>

<sup>b</sup> As far as the original expulsion goes, Lord Camden had forgotten his first opinion. *Ante*, vol. vi. p. 390.

<sup>c</sup> 16 *Parl. Hist.* 824.

<sup>d</sup> 16 *Parl. Hist.* 963, 1306. No other discussion respecting Lord Camden’s conduct while Chancellor, or his dismissal, appears in the printed parliamentary debates. But the



Soon after, arose the personal controversy between Lord Camden and Lord Mansfield respecting the law of libel. A motion having been made in the House of Commons, respecting the direction given to the jury on the trial of Woodfall, for publishing JUNIUS's "Letter to the King," Lord Mansfield desired that the House of Lords might be summoned, as "he had something to communicate to their Lordships." On the day appointed, he contented himself with saying that he had left a paper with the Clerk of the House; that the paper contained the opinion of the Court of King's Bench in the case of *Rex v. Woodfall*; and that their Lordships might read it, and take copies of it, if they pleased. Lord Camden asked him if he meant to have the paper entered on the Journals. He said, "No, no! only to leave it with the clerk."—*Lord Camden*. "My Lords, I consider the paper delivered in by the noble Lord on the woolsack\* as a challenge directed personally to me, and I accept it; he has thrown down the glove, and I take it up. In direct contradiction to him, I maintain that his doctrine is not the law of England. I am ready to enter into the debate whenever the noble Lord will fix a day for it. I desire and insist that it may be an early one. Meanwhile, I propose the following questions to the noble and learned Lord upon his paper, to each of which I expect an answer." He then read six questions respecting the Chief Justice's notions as to the jury being at liberty to consider whether the paper, charged to be libellous, be of a criminal or innocent character. Lord Mansfield replied that "this mode of proceeding was taking him by surprise; that it was unfair; and that he would not answer interrogatories." Lord Camden then pressed for a day to be appointed for the noble and learned Lord to give in his answers, and said he was ready to meet him at any time. Lord Mansfield pledged himself that the matter should be discussed. The Duke of Richmond, having congratulated the House on the prospect before them, begged that the day might be fixed.—*Lord Mansfield*. "I have only said I will hereafter give my opinion; and as to fixing a day, I will not fix a day."

Duke of Grafton, in his Journal, says: "At this time Lord Chatham's virulence seemed to be directed against myself: he persisted for some days in the intention of charging me in parliament with having advised the removal of Lord Camden, on account of his vote in the House; nor was he dissuaded from this till Lord Camden had assured him that he knew

so perfectly that the advice did not come from me, that he should, if his Lordship made the motion, think it incumbent on him to rise in his place and declare that he well knew it was not from my advice."

\* The Seals were now in commission, and Lord Mansfield presided as Speaker in the House of Lords.

The matter here dropped, and never was resumed, Lord Mansfield's want of moral courage holding him back from a renewal of the contest, and Lord Camden thinking that he had gained a sufficient triumph.<sup>f</sup>

The morning after this encounter, he received the following kind and flattering inquiry from Lord Chatham :—

“ Pall Mall, Wednesday.

“ My dear Lord,

“ I am anxious to know how you do after the noble exertion of yesterday. What your Lordship did was transcendent; and as you were not quite well, I am solicitous to hear of you;—though, after recollection, I think I ought to inquire how my Lord Mansfield does.”<sup>g</sup>

The ex-Chancellor continued most zealously to discharge his public duty, and was indefatigable in his attendance in the House of Lords, and in hearing causes in the Privy Council when summoned to attend there; but, till the rupture with the American colonies was approaching, he seems from this time seldom to have taken a prominent part in the debates.

When the Royal Marriage Act was brought forward in 1772, he strongly opposed it. He admitted that some regulations were necessary to prevent the misalliance of those near to the throne; but he disapproved of the proposed enactments, and he strongly pointed out the inconvenience and injustice which might arise from the proposal to extend them to all the descendants of George II., who, according to the common process of descent, might be expected in a few generations to extend to many thousands. He mentioned that he knew an undoubted legitimate descendant of a King of England who was then keeping an alehouse.—His manliness deserves great credit, considering that the reigning Sovereign was resolved to carry the bill as originally framed, against the advice of several of his Ministers,—and had expressed himself personally offended with all who questioned its wisdom.

In 1774, came on judicially in the House of Lords the great question of literary property, —“ whether, at common law, authors have a perpetual copyright in their works?” Lord Camden denied the claim; and, on his opinion, the judgment was pronounced, by which only a limited monopoly is enjoyed, as conferred by the legislature. I give a specimen of his speech, which has been loudly praised, but

<sup>f</sup> 16 St. Tr 1317, 1321.

<sup>g</sup> MSS. of Marquis Camden.

which I must own appears to me, though founded on right principle, to be rather declamatory :—

"If there be any thing in the world common to all mankind, science and literature are in their nature *publici juris*, and they ought to be free and general as air or water. They forget their Creator as well as their fellow-creatures who wish to monopolise his noblest gifts and greatest benefits. Why did we enter into society at all, but to enlighten one another's minds, and improve our faculties for the common welfare of the species? Those great men, those favoured mortals, those sublime spirits, who share that ray of divinity which we call *genius*, are intrusted by Providence with the delegated power of imparting to their fellow-creatures that instruction which Heaven meant for universal benefit: they must not be niggarda to the world, or hoard up for themselves the common stock. We know what was the punishment of him who hid his talent; and Providence has taken care that there shall not be wanting the noblest motives and incentives for men of genius to communicate to the world the truths and discoveries, which are nothing if uncommunicated. Knowledge has no value or use for the solitary owner; to be enjoyed it must be communicated: *scire tuum nihil est, nisi te scire hoc sciat alter*. Glory is the reward of science; and those who deserve it scorn all meaner views. I speak not of the scribblers for bread, who tease the world with their wretched productions; fourteen years is too long a period for their perishable trash. It was not for gain that Bacon, Newton, Milton, Locke, instructed and delighted the world. When the bookseller offered Milton five pounds for his *PARADISE LOST*, he did not reject the offer and commit his piece to the flames, nor did he accept the miserable pittance as the reward of his labours; he knew that the real price of his work was *immortality*, and that posterity would pay it. Some authors are as careless of profit as others are rapacious of it, and in what a situation would the public be with regard to literature if there were no means of compelling a second impression of a useful work! All our learning would be locked up in the hands of the Tonsons and Lintots of the age, who could set what price upon it their avarice demands, till the whole public would become as much their slaves as their own wretched hackney compilers." <sup>b</sup>

He afterwards opposed the bill introduced to extend the period of copyright,<sup>1</sup> and it was thrown out. But I think he was romantically unjust to literary men, and the controversy is at last well settled by the exertions of my friend Serjeant Talfourd<sup>k</sup>—so that literature may now be pursued as a liberal profession, offering to those who succeed in it the means of honourable support, and of making an adequate provision for their families.

<sup>a</sup> 17 Parl. Hist. 992. *Donaldson v. Becket*.

<sup>i</sup> Ib. 1402.

<sup>k</sup> Stat. 5 & 6 Vic. c. 45.

After the time when Lord Camden was removed from the office of Chancellor, till the Duke of Grafton quitted office and joined the Opposition in 1776, they were political enemies, but they continued private friends. I will here introduce a few extracts from the letters of the former, showing the familiar intimacy which subsisted between them.

The ex-Premier having accepted the office of Lord Privy Seal under Lord North, the ex-Chancellor sent him a letter of congratulation, in which he says—

“If I was not more afraid of public calumny than of any private or  
 June 19, particular displeasure, I should certainly, as I intended,  
 1771. pay my respects to your Grace next week, which your Grace must now excuse me from doing, because that would look more like courting your fortune than seeking your friendship. Notwithstanding which, I shall still hold myself engaged, if you please, to spend a day with your Grace at Wakefield Lodge some time in the summer. And when every body sees, as they will in a month or two, that I am neither partaking your good fortune, nor paying homage to it in the moment of your preferment, I shall set at nought every other suspicion that jealousy and malversation may raise against my conduct.”

To an invitation from the Duke to visit him, Lord Camden returned the following answer :—

“Deal, June 23, 1775.

“Your Grace is too great a man to feel the comfort of so private a retreat as I am enjoying, and of not being under the daily temptation of a plentiful table, when the digestion always suffers in proportion as the appetite is provoked. I am advancing apace towards the state of a steady and invincible abstinence, and begin to think I may be able to withstand all the allurements both of meat and drink. But I am sure to be in danger the moment I set my foot in Wakefield Lodge. If I should find myself sufficiently fortified to meet and resist this temptation by the month of August, I shall endeavour to take advantage of your Grace’s invitation, for I should be extremely happy to keep alive that friendship which had commenced in politics, and has never been violated, though unluckily interrupted, by the same cause.”

The next letter in the series is without date, but must have been written soon after :—

“Mine and your Grace’s old friend, the Earl of Chatham, still continues extremely ill. I am satisfied, from the account I hear from time to time (for he sees nobody), he can never recover his health so far as to be fit for any active business,—so miserably is he reduced by age and sickness. I am, thank God, remarkably well, but your

Grace must not seduce me into my former intemperance. A plain dish, and a draught of porter (which last is indispensable), are the very extent of my luxury. I have suffered a good deal, and have studied stomach disorders to such purpose, that I think I am able to teach your Grace (who are yet young) how to arrive at a strong and healthy old age,—which, I hope, will be your lot for the sake of the public as well as of your friends.”

When the Duke of Grafton, seeing the injustice of the American war, and alarmed by the unskilful manner in which it was carried on, joined Lord Chatham, Lord Rockingham, and Lord Shelburne, in trying to put an end to it, Lord Camden again wrote to him, with the most unbounded confidence on all subjects. The following is the desponding view taken by the ex-Chancellor of public affairs in the beginning of the year 1776:—

“I am so satisfied of the efficacy of Bath for my constitution, that I am determined to make it another visit next spring; nor shall any consideration of politics restrain me; for, indeed, my dear Lord, the chance of doing good is at an end. So many circumstances have combined, like so many fatalities, to overturn this mighty empire, that all attempts to support it are weak and ineffectual. Who could have imagined that the Ministry could have become popular by forcing this country into a destructive war, and advancing the power of the Crown to a state of despotism? And yet that is the fact, and we, the minority, suffer under the odium due only to the Ministers, without the consolation either of pay or power. America is lost, and the war afoot. There is an end of advising preventive measures, and peace will be more difficult to make than war was. For your Grace justly observes that the claims of the Americans, if they are successful, will grow too big for concession, and no man here will venture to be responsible for such a treaty. For I am persuaded it will be the fate of England to stoop, though I do not know the minister to apply so humiliating a remedy. Shall we ever condescend to make that country a satisfaction for damages? and yet she will never treat without it. What, then, must be our conduct in parliament? I am at a loss to advise. I thought from the beginning of the year secession was the only measure left. I still think the same: but I will enter the lists of a more active opposition if that shall be thought best. I wish it were possible for the whole body to unite; but union is only understood and practised on the other side of the Atlantic. That would be respectable, and perhaps formidable; but I do not expect to see it. Absence would look more like union to the public, and might, perhaps, join us at last into a confederacy.” If motions are to be made, they should

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“It is surprising to find this great constitutional lawyer recommending secession from parliament—a measure wrong in principle, and which has invariably been injurious to the party resorting to it.”

be in concert, and we ought to protect and defend each other from attacks, like real friends: else, like other broken forces, we shall be put to the rout."

A few days after, Lord Camden added:—

"I shall persist to the last in giving my testimony against this pernicious war, though I neither expect success nor popular applause; but it will be no inconsiderable consolation to hear my name joined to your Grace's, let the event turn out as it may."

In the autumn of this year Lord Camden visited Ireland, where he had a daughter married to Mr. Stewart, the ancestor of the present Marquess of Londonderry. Thence he thus addressed the Duke of Grafton:

"The colonies have now declared their independence. THEY ARE ENEMIES IN WAR, AND FRIENDS IN PEACE; and the two countries are fairly rent asunder. What then are we?—mere friends or enemies to America. Friends to their rights and privileges as fellow-subjects, but not friends to their independence. This event does not surprise me: I foresaw it. The Ministers drove it on with a view of converting a tyrannical and oppressive invasion into a national and necessary war; and they have succeeded too well: and now I expect the Opposition will be called upon to join with them in one cause, and we shall be summoned as Englishmen to unanimity. But if your Grace should see a French war to grow out of this civil dispute, which I expect and believe to be unavoidable, our provinces will then be leagued with our enemies in an offensive war against Great Britain. In such a situation a private man may retire, and lament the calamities which he endeavoured faithfully to prevent. But how can he give an active opposition to measures that self-preservation will then stamp with necessity? I have but one line to pursue if I am to bear my part, and that is a reunion with America, almost at any rate. '*Si possis, recte: Si non, quocunque modo.*' But I do not expect the ministry, the parliament, or the nation, will adopt any such system. So that what with the general fear in some of incurring the popular odium, and in others of seizing this opportunity '*to make their fortunes by shifting their position,*' according to Lord Suffolk's phrase,—the minority next winter will dwindle to nothing."

In the beginning of 1777 he writes—

"From politics, my dear Lord, I am almost entirely weaned. I cannot prevail upon myself to go with the tide, and I have no power to struggle against it. War must now decide the question between the two countries, both sides having too much offended to be ever forgiven. But, hopeless as I am, I shall be always at your Grace's command, and ready to contribute my poor endeavours for the public.

And yet I suspect I shall spend more time this year at the playhouse and opera than the House of Lords."

Notwithstanding Lord Camden's despair, arising from the violent policy adopted by the Government, and the passion for coercing the colonists which still prevailed in the nation, he nobly seconded Lord Chatham in all the efforts of that illustrious patriot to bring about a reconciliation between the mother country and the colonies. He spoke at great length in every debate upon America, and many of his speeches during this interval are preserved. But although they were most exciting when delivered, the interest of them has nearly died away, and I can only venture to give a few extracts from them to show their extraordinary merit.

In opposing the bill for cutting off commerce with the New England States which so soon led to hostilities, he said—

"Some of your Lordships inform us that it is a bill of mercy and clemency,—kind and indulgent to the Americans,—calculated to soothe their feelings, and to favour their interests. But, my Lords, the true character of the bill is violent and hostile. My Lords, it is a bill of irritation and insult. It draws the sword, and in its necessary consequences plunges the empire into civil and unnatural war."<sup>a</sup>

On the Duke of Grafton's motion respecting the British forces in America, he said,—

"I was against this unnatural war from the beginning. I was against every measure that has reduced us to our present state of difficulty and distress. When it is insisted that we aim only to defend and enforce our own rights, I positively deny it. I contend that America has been driven by cruel necessity to defend her rights from the united attacks of violence, oppression, and injustice. I affirm that America has been aggrieved. Perhaps as a domineering Englishman wishing to enjoy the ideal benefit of such a claim, I might urge it with earnestness and endeavour to carry my point; but if, on the other hand, I resided in America—that I were to feel the effect of such manifest wrong, I should resist the attempt with that degree of ardour so daring a violation of what should be held dearer than life itself ought to enkindle in the breast of every freeman."<sup>o</sup>

Speaking a second time in this same debate, after he had been loudly reproached for the violence of his language, he said,—

"Till I am fairly precluded from exercising my right as a Peer of this House, of declaring my sentiments openly, of discussing every subject submitted to my consideration with freedom, I shall never be prevented from performing my duty by any threats, however warmly and eagerly supported or *secretly suggested*. I do assure your Lordships I am heartily tired of the ineffectual struggle I am engaged in. I would thank any of your Lordships that would procure a vote of your Lordships for silencing me; it would be a favour more grateful than any other it is in the power of your Lordships to bestow; but until that vote has received your Lordships' sanction, I must still think, and, as often as occasion may require, continue to assert, that Great Britain was the aggressor, that our acts with respect to America were oppressive, and that if I were an American I should resist to the last such manifest exertions of tyranny, violence, and injustice." <sup>p</sup>

Lord Camden, in his correspondence with the Duke of Grafton, afterwards gives an account of a serious illness of Lord Chatham which was kept secret from the world, and seems to have been a prelude to the closing scene of his glorious career. In a P.S. to a letter, dated July 27, 1777, he says,—

"Since I wrote this I have received a melancholy account of a stroke received to-day by Lord Chatham, as he was riding. He fell from his horse, and lay senseless for ten minutes. The message to-night is, that he is very much recovered. Whether this was apoplectic, paralytic, or gout in the stomach, I cannot learn. I wish it may not prove fatal. The public has lost him, and I fear he and England will perish together."

In a few weeks after, he gives this statement of Lord Chatham's recovery and of his plans :—

"I thought it better to wait till I could give you some satisfactory account of my neighbour Lord Chatham's health, and his intentions at the opening of parliament. If your Grace thinks as I do that the Earl's recovery may, upon some possible event, give a new turn to public affairs, you will not be sorry to hear that he is now (though it seems almost miraculous), in bodily health and in mental vigour, as equal to a strenuous exertion of his faculties as I have known him these seven years. His intention is to oppose the address, and declare his opinion very directly against the war, and to advise the recalling the troops, and then propose terms of accommodation wherein he would be very liberal and indulgent, with only one reserve and exception, viz. that of subjection to the mother country : for he never



could bring himself to subscribe to the independence of America. This, in general, will be his line, and this he will pursue if he is alone. I should imagine your Grace would have no objection to concur with this plan, though it is certain beforehand that all the breath will be wasted, and the advice overruled by numbers. Yet it would be right to stand firm upon the same ground, and not depart an inch from our steady purpose of opposing this war for ever. Thus much I thought it my duty to impart to your Grace. For my own part I still continue in the same state of despondency, hoping nothing and fearing every thing."

On the memorable 7th of April, 1778, when Lord Chatham fell senseless on the floor of the House of Lords in a dying effort to save his country, Lord Camden, who was prepared to follow him in the debate, eagerly ran to his relief, and joined in the vote of adjournment to which the House immediately came. A few days after, in a letter to the Duke of Grafton, he wrote the following account—the most graphic and the most authentic extant—of that solemn scene:

"April, 1778, N. B. Street.

"My dear Lord,

"I cannot help considering the little illness which prevented your Grace from attending the House of Lords last Tuesday to have been a piece of good fortune, as it kept you back from a scene that would have overwhelmed you with grief and melancholy, as it did me and many others that were present: I mean Lord Chatham's fit, that seized him as he was attempting to rise and reply to the Duke of Richmond; he fell back upon his seat, and was to all appearance in the agonies of death. This threw the whole House into confusion; every person was upon his legs in a moment, hurrying from one place to another, some sending for assistance, others producing salts, and others reviving spirits. Many crowding about the Earl to observe his countenance—all affected—most part really concerned; and even those who might have felt a secret pleasure at the accident, yet put on the appearance of distress, except only the Earl of M., who sat still, almost as much unmoved as the senseless body itself.<sup>a</sup> Dr. Brocklesby was the first physician that came; but Dr. Addington, in about an hour, was brought to him. He was carried into the Prince's chamber, and laid upon the table supported by pillows. The first motion of life that appeared was an endeavour to vomit, and after he had discharged the load from his stomach that probably brought on the seizure, he revived

<sup>a</sup> It appears by the Journals that there were only two Earls bearing titles beginning with an M. present that day—the Earl of Marchmont and the Earl of Mansfield. I am

much afraid that the latter is alluded to: he only is represented as sitting, in Copley's famous picture of this scene. •

fast. Mr. Strutt prepared an apartment for him at his house, where he was carried as soon as he could with safety be removed. He slept remarkably well, and was quite recovered yesterday, though he continued in bed. I have not heard how he is to-day, but will keep my letter open till the evening, that your Grace may be informed how he goes on. I saw him in the Prince's chamber before he went into the House, and conversed a little with him, but such was the feeble state of his body, and, indeed, the distempered agitation of his mind, that I did forebode that his strength would certainly fail him before he had finished his speech. In truth, he was not in a condition to go abroad, and he was earnestly requested not to make the attempt; but your Grace knows how obstinate he is when he is resolved. He had a similar fit to this in the summer; like it in all respects, in the seizure, the retching, and the recovery; and after that fit, as if it had been the crisis of the disorder, he recovered fast, and grew to be in better health than I had known him for many years. Pray Heaven that this may be attended with no worse consequences. The Earl spoke, but was not like himself; his speech faltered, his sentences broken, and his mind not master of itself. He made shift, with difficulty, to declare his opinion, but was not able to enforce it by argument. His words were shreds of unconnected eloquence, and flashes of the same fire which he, Prometheus like, had stolen from heaven, and were then returning to the place from whence they were taken. Your Grace sees even I, who am a mere prose man, am tempted to be poetical while I am discoursing of this extraordinary man's genius. The Duke of Richmond answered him, and I cannot help giving his Grace the commendation he deserves for his candour, courtesy, and liberal treatment of his illustrious adversary. The debate was adjourned till yesterday, and then the former subject was taken up by Lord Shelburne, in a speech of one hour and three quarters. The Duke of Richmond answered; Shelburne replied; and the Duke, who enjoys the privilege of the last word in that House, closed the business, no other Lord, except our friend Lord Ravensworth, speaking one word; the two other noble Lords consumed between three and four hours. And now, my dear Lord, you must with me lament this fatal accident; I fear it is *fatal*, and this great man is now lost for ever to his country; for, after such a public and notorious exposure of his decline, no man will look up to him, even if he should recover. France will no longer fear him, nor the King of England court him; and the present set of ministers will finish the ruin of the state, because, he being in effect superannuated, the public will call for no other men. This is a very melancholy reflection. The opposition, however, is not broken, and this difference of opinion will wear off; so far, at least, the prospect is favourable. I think I shall not sign the protest, though, in other respects, I shall be very friendly. I have troubled your Grace with a deal of stuff, but the importance of the subject will excuse me.

“Your Grace's, &c.

“CAMDEN.

“P.S. I understand the Earl has slept well last night, and is to be removed to-day to Downing Street. He would have gone into the country, but Addington thinks he is too weak.”

On the day when the debate was resumed, Lord Camden was silent; and it was remarked, that thenceforth during the rest of the struggle with America, being deprived of his great associate,—from grief, or despair of doing good, he hardly ever addressed the House.

However, when the bill to mark the gratitude of the nation for the immortal services of Lord Chatham was opposed by the Lord Chancellor Apsley, although the King professed to approve of it, Lord Camden’s indignation burst forth, and he exclaimed,—

“The noble and learned Lord on the woolsack has praised very deservedly—I hope with no insidious intention—the memory of the Duke of Marlborough, but seems entirely to have forgotten the victories of the deceased Earl. I will remind the noble and learned Lord that while he, who it is now wished to treat with neglect, *as if by some accident alone he had been elevated to an office he was incompetent to fill*, ruled the destinies of this mighty empire, from the extremest east to the setting sun; in every quarter of the globe—to earth’s remotest bounds—were the arms of England borne triumphant;—our operations on the sea and on the land were invariably accompanied by extension of territory and extension of commerce, and we had at once all the glories of war and all the enjoyments of peace. But, my Lords, what I consider a more substantial claim to your admiration and your gratitude, he was ever the assertor of liberty and the defender of the rights of Englishmen at home and abroad. Had his advice been followed, the country would now have been free, tranquil, and happy; and it is only by returning to his principles that we can be rescued from the state of degradation and suffering to which, by despising them, we have been reduced.”<sup>r</sup>

It is not very creditable to the House that, at the division, the attendance of Peers was so small;—perhaps the dinner hour had arrived;—but the bill was carried by a majority of 42 to 11.

Lord Camden warmly supported Lord Rockingham’s motion for a censure on the manifesto of our Commissioners in America which put the country under martial law—when he took occasion to reprobate the cruel manner in which hostilities were conducted, and still more the arrogant tone in which this cruelty was defended:—“Were not tomahawks and scalp-

ing-knives considered the proper instruments of war? Was not letting loose savages to scalp and murder the aged and the impotent, called *using the instruments of war which God and nature have put into our hands?*" Then, in the spirit of his departed friend, he counselled that, instead of trying to lay waste America, we should immediately strike a blow against France, evidently preparing to take part against us. "Distress France," said he; "render her incapable of assisting America. Attack France immediately; attack her powerfully by sea. England is still mistress of the ocean. To wound America is to wound ourselves. To aim a blow at France is to prevent a blow from being aimed at us by an inveterate enemy." The motion being negatived by 71 to 37, he drew up a spirited protest which was signed by almost all the Whig Peers.\*

When the indecisive engagement off Ushant took place in the summer of 1778, Lord Camden, in a letter to the Duke of Grafton, showed much sagacity in penetrating the intentions of France and Spain to assist the Americans:—

"Keppel's engagement with the French fleet is only the beginning of this cursed war. I don't apprehend the French avoided the action through fear, but policy, and that they came out of Brest only to provoke Keppel to make the first assault, so as to be justified in America, by maintaining England to be the aggressor, and so to bring the war within the case of their treaty of alliance, by which America is bound to assist, and, indeed, to be a principal in the French war, and Keppel's chasing will be called the *first assault*. These are my politics, for I am, as I always have been, persuaded that France was determined at all events to make the war, and I am equally certain that Spain will join, notwithstanding the Spanish ambassador's journey hither, which is no better than an imposture, and that too shallow to impose on any but children and our ministers."

In the session of 1779, Lord Camden entered into a laborious exposure of the abuses of Greenwich Hospital, A.D. 1779. which were rendered famous as the subject of Lord Erskine's first speech at the bar;—and he was of essential service in rendering this noble establishment more beneficial for our brave seamen.

He then made an effort to obtain liberal measures for Ireland, which being withheld, up sprang the volunteers, who petitioned with arms in their hands:—"I hope and believe," said he, "notwithstanding the ill treatment the Irish have received from this country, which has brought upon them an

accumulation of distresses and calamities, they will still retain their affection and attachment for England. Let us meet them with generous kindness. Nothing should be done by halves—nothing niggardly—accompanied with apparent reluctance.”<sup>†</sup>

Soon after, in a debate on pensions and sinecures, being taunted about his own *pension*, or, as we should call it, “retired allowance,” he said “he received it for long services, and in lieu of a valuable office (Chief Justice of the Common Pleas), and it would be a hardship to his family to lose it, and the reversion which was to supersede it; but if they must be included in a measure for clearing away abuses, he should rejoice in it, however the loss might distress him, when he reflected on the great and permanent advantages which would thereby accrue to his country.”<sup>u</sup>

In the autumn of this year Lord Camden proposed to the Duke of Grafton a new plan of operations to be pursued by the Opposition :—

“A conversation with your Grace upon the state of the kingdom at present, will give me as much satisfaction as I am capable of receiving upon so hopeless a subject. If your Grace can suggest any plan of proceeding for the Opposition, likely to change the Court system or animate the public, I shall be happy to adopt as well as to promote it. For my own part, I confess fairly my own opinion that the opposition to the Court is contracted to a handful of men within the walls of parliament, and that the people without doors are either indifferent or hostile to any opposition at all. Whether this singular and unexampled state of the country is owing to a consciousness among the people that they are as much to blame as the ministers, and are ashamed to confess their own error, or whether, in truth, they hold the Opposition so cheap as to think the kingdom would suffer instead of mending by the exchange, or, from a combination of all these motives, choose to suffer patiently rather than encounter the troubles that are apt to follow upon a general disturbance: whatever is the cause of that slavish resignation which is predominant at present, the fact is, they do not desire a change. What then is to be done in order to obtain some degree of popularity? I shall make a simple answer by saying, ‘*Nothing!*’ and yet perhaps that nothing, if well conducted, might have a stronger operation than the vain repetition of those feeble efforts that have hitherto been made in parliament by perpetual wrangles, personal animosity, abuse, and bad language, for this attack has been returned twofold upon us, and has set the parties against each other like a couple of prize-fighters combating for the entertainment of the gazing public.

<sup>†</sup> 20 Parl. Hist. 670.

<sup>u</sup> Ibid. 1363.

who are greatly diverted by a blow soundly given or dexterously parried, without a wish for the victory of either of the combatants. This has been the conduct of Opposition hitherto. If, on the other hand, a firm and temperate Opposition in short speeches, a few debates without rancour, could be established, such a course might probably restore us to the good opinion of the public, and then the distress of the times might work them into an opinion that the Opposition mean really the good of the whole. This or any idea may serve to talk of, but, to say the truth, I have no hopes left for the public; the whole people have betrayed themselves, and are not worth fighting for."

In the session of 1780 Lord Camden delivered a very long and animated speech in answer to Lord Thurlow, A.D. 1780. now Chancellor, who was resolved to throw out a bill which the Commons had passed almost unanimously, to disqualify Government contractors from sitting in their House. He began by observing that "his noble and learned friend on the woolsack had maintained his opposition to the bill in contradiction to the clearest principles of the constitution, indeed to every rule of common sense and common experience, and to the whole system of parliamentary jurisprudence. His noble and learned friend had expressed himself in very strong language against innovation, and had rallied their Lordships to the post of danger, as if the constitution were to be overturned; but might not the same opposition have been given in the same words to bills now universally acknowledged to be necessary to preserve the purity and efficiency of our representative system,—the Place Bill, the Pension Bill, and the Bill for disqualifying officers of the Excise or Customs from sitting in the other House, because they may be preferred or dismissed at the pleasure of the Crown? Would his noble and learned friend have called these measures '*idle and fanciful suggestions, the phrenzy of virtue and the madness of ideal perfection*?' " The bill was rejected by a majority of 61 to 41,—a decision which rendered the Lords very odious, the Commons a few days before having passed the famous resolution moved by Dunning—"That the power of the Crown has increased, is increasing, and ought to be diminished."\*

A debate took place, in the beginning of 1781, on the King's Jan. 23, message relative to the rupture with Holland, which 1781. made the situation of public affairs still more difficult and alarming. There being, as yet, no symptom of any

change of policy on the part of the Government, Lord Camden, rising with great solemnity, and speaking in a tone of the deepest grief, said :—

“He rose from a call of duty, for the last time, and, whatever might be the event of this final effort to save his country, at least to mitigate her distresses and misfortunes, he should retire from his fruitless attendance in that House with this consolation, that he had discharged his duty to the best of his poor abilities so long as it promised to be productive of the smallest or remotest good, and that he declined giving their Lordships any further trouble where hope was at an end, and when zeal even had no object which could call it into activity. He regretted that he had not formed the resolution earlier, as he should thus have been saved from much chagrin and a series of the most mortifying disappointments, for he had been able in no degree to prevent or retard the ruin which now seemed impending.”<sup>7</sup>

He interfered no farther with any political question during this protracted session ; but in the recess which followed there was such a loud expression of public opinion against the war, and such strong rumours were circulated of Lord North's wish to retire, that when parliament re-assembled, he attended to make another effort for peace. His speech, on supporting the amendment moved by Lord Shelburne, was, I think, decidedly the best he ever delivered in Parliament, and it is fully and correctly reported ; but, to its credit, there is no passage in it which I can select for quotation. Instead of aiming at fine sentences, (the sin which most easily beset him,) he confined himself to a simple and rapid narrative of facts,—from which he deduced the incapacity of ministers, and attempted to show that the only chance of saving the empire from final ruin, as well as dismemberment, was by an immediate change of men and of measures.

The extraordinary merit of this speech is said to be demonstrated by the eulogy which it extorted from the unwilling Thurlow, who followed in the debate :<sup>8</sup> but, with more doubtful claims to praise, it might possibly have been very favourably criticised by this dissembler, who, under the guise of bluntness, had ever a keen eye to his own advantage, and who, seeing a change approaching, was rather willing to soothe opponents, and to show that his enmities were placable. Whatever might be his motives, he thus began :—

“I must acknowledge, my Lords, the great abilities of the noble

<sup>7</sup> 21 Parl. Hist. 1060.

<sup>8</sup> See Lord Brougham's "Statesmen of George III.," 3rd series, 177

and learned Lord who has just sat down. I affirm that, to the best of my judgment, I never heard a more able discourse within these walls: the premises were openly and clearly stated, and the deductions followed without constraint or false colouring. I trust that the noble and learned Lord will receive these as my real sentiments, for I am not at any time much in the habit of travelling out of the business before the House, to keep up the trivial forms of debate—much less to pay particular personal compliments to any man.”

He then proceeded to combat the amendment,—which was negatived by 75 to 31,—but which he well knew embodied the sentiments of a majority of both Houses.\*

The crisis soon arrived; Lord North declaring in the House  
 March 20, of Commons, on the day fixed for Lord Surrey's mo-  
 1782. tion on “the state of the nation,” that “his Majesty's  
 ministers were no more.”<sup>b</sup> Now was formed the second Rock-  
 ingham administration, and the Whigs, till they quarrelled  
 among themselves, were completely in the ascendant. There  
 was considerable difficulty in disposing of the Great Seal.  
 Lord Camden might, no doubt, have resumed it with the full  
 concurrence of all sections of the party, but for twelve long  
 years he had been unaccustomed to daily judicial drudgery; he  
 was now verging upon seventy, and his attacks of the gout  
 were becoming more frequent and more severe. He, therefore,  
 preferred the office of President of the Council.

It has always been unaccountable to me, that, on his declining the Great Seal, it was not given to Dunning, a most consummate lawyer, as well as a great debater and a zealous Whig. If he unaccountably preferred the Duchy of Lancaster, the subordinate office conferred upon him, why was not the Great Seal given to Sir Fletcher Norton, who had become a favourite with the Rockingham Whigs, and was most eager for judicial elevation? The King, no doubt, was desirous that Thurlow should still be the “Keeper of his conscience,” so that he might have a “friend” in the Cabinet; but his wishes at that moment might easily have been controlled. I suspect that the Shelburne and Rockingham sections continued distinct even at the formation of the government, Dunning belonging to the former, and Norton to the latter, and that neither would agree to the appointment of the other's lawyer to the woolsack. This jealousy was openly manifested in a few days, for, although it be the province of the prime minister to “take the King's pleasure” with respect to the creation of peers,

\* 22 Parl. Hist. 637—679.

<sup>b</sup> Ib. 1214.



Dunning was made Baron Ashburton on the advice of Lord Shelburne, without the knowledge of Lord Rockingham; whereupon Lord Rockingham immediately insisted that Norton should be made Baron Grantley. Thus the Great Seal remained in the clutch of Thurlow, who hated all Whigs of all degrees with a most perfect hatred, and could not possibly be expected cordially to act in a Government founded on principles which he had uniformly and vehemently opposed.

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## CHAPTER CXLVI.

CONTINUATION OF THE LIFE OF LORD CAMDEN TILL THE KING'S ILLNESS  
IN 1785.

THE inconvenience of having Thurlow for Chancellor was soon experienced by the new Government. Lord Rockingham and Lord Shelburne both agreed upon the propriety of carrying the "Contractors' Bill," which had been <sup>A.D. 1782.</sup> lately rejected,—and, by way of redeeming their pledges, and maintaining their popularity, the reintroduction of it was one of their first measures. In the House of Lords it was fiercely attacked by the "Keeper of the King's conscience," who was thus answered by his colleague, Lord Camden, the new Lord President of the Council:—

"My Lords, I must express my astonishment at the laborious industry exerted by the noble and learned Lord on the woollack; I can only suppose that he wishes to eke out a long debate, which (confining ourselves to solid and rational discussion) might, in my humble apprehension, have terminated in half an hour. The bill presents to my mind but one idea; it is simple and obvious. The noble and learned Lord said its principles should be examined, and, in that single observation of all he addressed to you, I agree with him. I believe there is no noble Lord present who doubts of the existence of 'undue influence' in one shape or another, however denominated, or whatever aspect it may lately have assumed. A very distinguished member of the other House,<sup>s</sup> now transferred into this on account of his great talents and inflexible political integrity, moved a resolution which was carried against the minister by a considerable

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<sup>s</sup> Dunning, Lord Ashburton. See 21 Parl. Hist. 340, 6th April, 1780; majority, 233 to 215.

majority,—‘That the influence of the Crown has increased, is increasing, and ought to be diminished.’ This is a full recognition on record of the existence of that evil which the principle of the bill was calculated to remove. I will not say that an improper or corrupt influence has ever in any instance operated on any of your Lordships. My regard for the purity and dignity of this assembly forbids me to entertain such a suspicion. Nevertheless, I most heartily concur in the resolution of my noble and learned friend, which we must not allow to remain a dead letter, but make the foundation of practical improvement. I can hardly believe that the noble and learned Lord was serious in denying the existence of all public corruption. Thank God! as far as my means and poor capacity could be exerted, I have uniformly set my face against it. I can assure your Lordships that the hope of assisting to remove this cause of our national misfortunes constituted one of the prime inducements for my taking a part in the administration. My colleagues in office, who entered into the King’s councils along with me, I am sure are animated by a firm and unanimous resolution to reform all abuses, to promote public economy, and to give their Sovereign and the nation such proofs of their sincerity as must put it out of the power of any set of men to deprive them of their only means of solid support. The noble and learned Lord has tried to compel your Lordships to reject this bill, because you rejected a similar bill two years before. He seeks to deprive you of the exercise of your understanding, and to deprive the public of all advantage from the removal of prejudice and the advancement of knowledge. The bill is different in some of its provisions, and your Lordships are considering it under altered circumstances. This bill is part of a general plan of reform. To effectuate so great a work, my friends have been invited by the public voice to take office. If this bill be thrown out, there is an end of the present administration; they would be no more. Having failed in our expectations, we being unable to carry the measures which while in opposition we recommended to those in power, the nation would regard us with indignation if we continued to draw our salaries while we are under the dictation of those whom we despise. Corrupt and incapable as the last ministers were, I am free to confess, my Lords, that in that case it would be much better that they should be restored to power. They may possibly amend; but by remaining in office without the confidence of parliament and under the necessity of abandoning our objects, we should become daily more degraded and more contemptible, and we should not only ruin our own characters, but extinguish all confidence in public men, essentially injure the country, and take away all hope of better times.”

Thurlow continued a most vexatious opposition to the bill in the committee,—denouncing it as “a jumble of contradictions;” but Lord Camden left the farther defence of it to the two new law Lords, Lord Ashburton and Lord Grantley, and

they fleshed their maiden swords in various rencounters with the "blatant beast" who tried to tread them down. In some of the divisions the ministerial majority was not more than *two*. The bill was carried, but the Administration was much shaken by this sample of the manner in which it was to be thwarted by the "King's friends."<sup>b</sup>

Lord Camden's next speech in the House of Lords was in support of the bill to declare the legislative independence of Ireland, which had become necessary from the determined efforts of the Irish "Volunteers," in consequence of moderate and reasonable concessions being long denied to the sister kingdom. This measure was prudent under existing circumstances, with a civil war raging, and foreign enemies multiplying around us; but any prudent statesman might have foreseen that it could not permanently be the basis of the connection between the two islands. The parliament of Ireland and the parliament of Great Britain being equally supreme and independent, they must ere long differ on questions of vital importance, without an arbiter to reconcile them; and if, from any calamity, the power of the Crown should be in abeyance, every tie which bound them together would be severed. Lord Loughborough urged, "that when there was no check upon the Irish parliament but the mere *VETO* upon bills, and the government of each country was to move in perfect equality, his Majesty would not be King in Ireland in any different manner from that in which he might be sovereign of any other separate territory. The contiguity of position might preserve a more constant intercourse between the subjects of both, and the communion of rights unite them more closely to each other; but it was a possible case, that their interests might be supposed to be conflicting, and what then was to prevent their separation?"

Lord Camden, not being able to solve these difficulties, and not venturing to hint at the remedy of a legislative union, regretted "that any debate had arisen on the subject; saying, that unanimity would have given the best chance of efficiency to a measure that must pass." He spoke much of the virtues of the Irish, and the hardships they had suffered. "The right of binding Ireland by a British statute could not be exercised. Why then should the right be claimed? His noble and learned friend had not suggested any other practical course than to agree to this bill. There was no difficulty in renouncing our

right of judicature ; so far it was a matter entirely for the consideration of the Irish : and as they now had a House of Lords consisting of men of great wisdom, knowledge, and integrity, assisted by their Judges, supposed to be well qualified to advise in matter of law, they were quite right in wishing to decide their own law-suits at home. With regard to legislation, there was more difficulty ; but the present demand from the parliament of Ireland only echoed the voice of a brave, a generous, and an *armed* people ; and he dreaded what might ensue if its justice or expediency were questioned." The bill was very properly passed, with little more discussion ; but, within seven years, upon the mental malady of George III.—according to the doctrine which prevailed, that it lay with the two Houses of Parliament to supply the deficiency—there might have been a choice of two different regents for the two islands ; and in point of fact, the two islands were about to appoint the same regent by very different means, and with very different powers.

Soon afterwards came the disruption of the Whig government, by the death of the Marquis of Rockingham, and the appointment of Lord Shelburne to succeed him. Lord Camden was of opinion (and, I must say, with due deference to such names as Fox, Burke, and Lord John Cavendish, was rightly of opinion) that there was no sufficient ground for ministers to throw up their employments in a crisis of such danger to the state. The new Premier was not generally popular ; but he was of liberal principles, he was of good abilities, he was a magnificent patron of learning and genius ; and the Rockinghams, though personally disliking him, had been sitting with him in the same cabinet. A denial of the right of the King, under these circumstances, to prefer him, was something very much like an entire extinction of the royal authority by a political junto. Lord Camden, therefore, retained his office of President of the Council till he was ejected by the formation of the "Coalition Ministry." He was much grieved to be separated from political friends to whom he was sincerely attached,—and chagrined to be brought into closer contact with Lord Thurlow, whose consequence in the Cabinet was much enhanced ; but he earnestly superintended the negotiations for peace, and laboured to bring them to a favourable issue.<sup>k</sup>

<sup>i</sup> 23 Parl. Hist. 44. See Lord Camden's letter on this subject, 13th Aug. 1784, post.

<sup>k</sup> While the negotiations for peace were going on, it would appear that the President

Soon after the formation of Lord Shelburne's Government, it was in great danger from internal dissensions. The Duke of Grafton had been induced by Lord Camden to join it, and to accept the Privy Seal. Probably forming an exaggerated notion of his own importance, from his superior rank and the political station he had once filled, he thought himself slighted, and thus disclosed his griefs to his old friend :—

"I begin to feel now what I have thought often before—that a Lord Privy Seal, who is not known and understood to be *confidentially trusted* and *consulted* by the principal minister, cuts but a silly figure at a cabinet. If he is wholly silent, and tacitly comes in to all that is brought there, he becomes insignificant—as he is deemed officious and troublesome if his opinions urge him to take a more active part than his office appears to call from him. I have too much warmth and zeal in my disposition not to be drawn into the latter; and my spirit revolting at the former, I find that I must make my retreat if my suspicions should be realised, and that the Earl of Shelburne circumscribed his confidence towards me within the bounds of great *civility* and *appearance of communication*." [After at great length stating the means by which he had connected himself with Lord Shelburne, and his supposed ill usage, he says,] "I had once resolved, from a dislike to suspense, to have told you all I thought and felt on the subject; but it is knowing too little of mankind to think that opinions or real confidence can be forced. You may as well force love, and I was and think I shall remain silent. However, it has eased my mind in some degree to have opened my design to your Lordship. We have moved so much on the same principle, that I cannot help wishing to hear what you say about me. My case is particular: recollect the situation I have been in, and that, thank God! I have nothing I want, and nothing I fear from any minister; and, above all, that my domestic peace and happiness ought to be most the object of my wishes and pursuits; and then say, my dear Lord, if I am not right."

Thus Lord Camden replied :—

"I have seen and observed with infinite concern that Lord S. has by no means treated your Grace with that confidence I expected, after you had so earnestly laboured to support his new administration, not

of the Council was confidentially consulted respecting the different articles. There was now, as there had been at antecedent periods, a disposition to restore Gibraltar to Spain; but this he strenuously resisted. "With Lord Camden," says the Duke of Grafton, "I had much conversation; he appeared to me to lean now considerably to the opinion that

Gibraltar is of more consequence to this kingdom, and that the views of its ministers ought in future to look to the possession of it as an object of more value than at first imagined; as likewise that the cession of it, even on good terms, would be grating to the feelings of the nation."—*Journal*, 1782.

only by taking so important a post in it yourself, but by keeping others steady who were wavering at that critical moment. I am myself an instance and a proof of your Grace's endeavours, for your persuasion had more force with me than any other motive to remain in my present office. I was therefore disappointed, seeing the Earl of S. so negligent in his attention to your Grace; as if, when his administration was settled, he had no further occasion for those to whom he was indebted for the credit of his situation. Your Grace's real importance demanded the openest communication, and your friendship the most confidential return, and therefore I cannot be wholly without suspicion that his Lordship means to take a line, and pursue a system, not likely to meet with your Grace's approbation; and if he does, I am not surprised at his reserve: for where there is a fundamental difference of opinion there can be no confidence. However, I will not suffer my suspicions to operate with me till I have demonstration by facts. Lord S. continues to make professions of adhering to those principles we all avowed upon the first change, and he has pledged himself publicly to support them—in which respect it is but reasonable to wait some time for the performance of his promises. At the same time I do readily admit your Grace's dignity, rank, and former situation require something more, and you ought not, as Duke of Grafton, to submit to so under a part with the Earl of Shelburne as to be Privy Seal without confidence. But considering the perilous condition of the public at this conjuncture, I should be much concerned if your Grace was to take a hasty resolution of retiring just now, because your retreat would certainly be followed by other resignations, and would totally *unwhig* the administration, if I may use the expression;<sup>m</sup> and this second breach, following so quick upon the first, would throw the nation into a ferment. It will not be possible when the parliament meets for Lord S. to conceal or disguise his real sentiments; and if it should then appear that the government in his hands is to be rebuilt upon the old bottom of influence, your Grace will soon have an opportunity of making your retreat on better grounds than private disgust.

"I am not more fortunate than your Grace in sharing his Lordship's confidence. Yet, though 'I am bound only for three months,' and have the fair excuse of age to plead, I would not willingly risk the chance of any disturbance at this time by an abrupt resignation, but would rather wish, if such a measure should hereafter become necessary, to take it in conjunction with others upon public grounds.

"I am, besides, but too apprehensive that more than one of us will be ripe for it, perhaps before the session. Lord K., I know from certainty, will quit after the campaign. The D. of R.'s discontent is

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<sup>m</sup> The only other occasion I recollect of this word being used was when Mr. Fox, on the King's illness, having contended that the heir apparent was entitled as of right to be

Regent, Mr. Pitt, smacking his thigh, exclaimed, 'For this doctrine I will *'unwhig'* him for the rest of his days.'

marked in his countenance; and if the Whigs should desert, neither G. C., nor Mr. Pitt, nor even Mr. T., would have the courage to remain behind. I do not, my dear Lord, conceive it possible that a cabinet composed as ours is can be of long duration; especially if Lord S. confines his confidence to one or two of those possibly obnoxious to the others. I have had a long friendship for the Earl, and cannot easily be brought over to act a hostile part against him, and for that, as well as other reasons, cannot help expressing my own wishes that your Grace may wait awhile; at least till you have received most evident conviction of his indifference to your opinions and assistance."

The Duke of Grafton says: "Lord Camden's advice prevailed, and I readily acquiesced in his opinion on this occasion, as I was always inclined to do on most others."<sup>n</sup> Thus harmony was restored, and Lord Shelburne's Government went on with some vigour till the preliminaries of peace were signed.

Mr. Fox and Lord North, by their ill-starred union, having then obtained in the House of Commons a large majority, and passed a vote of censure on the terms agreed to, parties were thrown into a state of unexampled confusion. Lord Shelburne was still unwilling to retire, and hoping to create a difference between the chiefs associated for his overthrow, meditated to form a coalition himself either with the one or the other of them. Meanwhile his colleagues strongly pressed him to resign. The Duke of Grafton demanded an audience of the King, and, acting singly, though with the approbation of Lord Camden, surrendered the Privy Seal into the <sup>Feb. 19,</sup> King's hands, on account of his disagreement with <sup>1783.</sup> the head of the Cabinet. His Grace, after relating his conversation with George III.; gives a very lively sketch of the state of the ministry at this time:—

"Previously to my going to St. James's, Lord Camden called on me, and imparted all that he found himself at liberty to say of a very serious conversation he had that morning with the Earl of Shelburne, who had sent for Lord Camden, as he now and then did when he found himself in difficulties, and on this occasion to consult Lord Camden on the part it became the Earl to take. The substance of Lord Camden's advice was decisive, and nearly this: that Lord Shelburne should retire, as unfortunately it plainly appeared that the personal dislike was too strong for him to attempt to stem with any hope of credit to himself, advantage to the King, or benefit to the

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<sup>n</sup> Journal, Aug. 1782.

country ; that he had it in his power to retire now with credit and the approbation of the world, for whatever the acts and powers of united parties had expressed by votes in parliament, &c., still the nation felt themselves obliged to him for having put an end to such a war by a peace which exceeded the expectations of all moderate, fair-judging men. Lord Camden further said to his Lordship, that he might add lustre to his retreat by prevailing on the King to call on the body of the Whigs to form an administration as comprehensive as could be. Lord Camden went further, by saying, that if Lord Shelburne could not be prevailed on to take either of the steps which would give him most credit with the world, and that he was still from engagement or inclination instigated to stand as minister, he had nothing better to advise than that his Lordship should, with manly courage, avow a close junction with Lord North's party, if he could so manage it. This, indeed, might enable his Lordship to carry an administration which a middle way and a partial junction never would effect. Lord Camden added, that he thought the last scheme to be that which ought, if possible, to be avoided. I observed to Lord Camden that I was clear, notwithstanding the advice, that Lord Shelburne preferred it to all the others, and that such would be his decision. The object of sending for Lord Camden, I believe, was with the hopes to draw him into his opinion if he was able, and by no means to take his advice unless it could be made to coincide with the part he was decided to take, though he did not perceive that it was now too late for his plan to succeed. Lord Camden freely acquainted Lord Shelburne that he could not remain at any rate, that the whole was new modelled, and that he must claim his right of retiring at three months, and which had been stipulated at Lord Rockingham's death. Lord Camden urged to him strongly the propriety of his coming to his decision before two days were expired : the other inclined to see the event of as many months.—On the 21st, Lord Camden called on me in the morning, and, after much lamentation on the alarming state of public matters, he told me that he was fully determined to quit his office, but that he should take every precaution to make it particularly clear that his resignation should not be interwoven with Lord Shelburne's retreat : he was anxious that his Lordship's conduct on the present occasion should neither guide his in reality nor in appearance. Lord Camden's decision pleased me much, as I told him, for his character entitled him to take his own part whenever he thought the ground good and honourable, without being actuated by the decision of any person whatever."

Lord Camden accordingly resigned in a few days after, and Mr. Fox and Lord North remaining steady to their engagements, notwithstanding all the attempts which were made to disunite them, Lord Shelburne was obliged to retire,—the Cabinet was stormed,—and, for a brief space, the " Coalition Ministry " was triumphant.

Lord Camden now went into violent opposition, and listed



himself under the banner of the younger Pitt, delighted to recognise in him the brilliant talents and the lofty aspirations of the friend of his youth, his political patron, and the associate of his old age—with whom he had long fought the battles of the Constitution.\*

When Mr. Fox's India Bill, after its most stormy passage through the Commons, at last reached the House of Lords, it was violently assailed by the ex-Chancellor, who denounced its principle as being an arbitrary infringement of the property and the rights of the greatest Company in the world. "This bill," he said, "was tantamount to a commission of bankruptcy or a commission of lunacy against them: it pronounced them to be unable to proceed in their trade, either from want of property, or from want of mental capacity. The only argument for this violent measure was that of *necessity*—which had been used by the worst kings and the worst ministers for the most atrocious acts recorded in history. The only necessity for the bill was that ministers might preserve their power and increase their patronage. The author of the bill was himself to appoint to every office in India. The influence of the Crown had been, to a certain degree, curtailed by late reforms, but now it would be infinitely greater than when one section of the present Government had beaten the other on the resolution that 'the influence of the Crown had increased, was increasing, and ought to be diminished.' He lamented the death of the Marquis of Rockingham, who, had he survived, would have adhered steadily to the doctrines of Whiggism, and he lamented still more deeply that some of those who called themselves his friends should now favour a measure so inconsistent with the principles which it had been the labour of that great man's life to establish."†

The bill being rejected in the House of Lords by a majority of 95 to 76, the "Coalition Ministry" being dismissed, and William Pitt, at the age of twenty-four, being made Prime Minister, it was expected that Lord Camden would immediately have resumed his office of President of the Council,—and this would have happened had he not waived his claim, that he might facilitate the new arrangements. Earl Gower, afterwards Marquis of Stafford, although he

\* It might truly have been said of Lord Chatham and Lord Camden, that "in many a glorious and well-foughten field they kept together in their chivalry"  
P 24 Parl. Hist. 180.

had never had the slightest intercourse with Mr. Pitt, entertained a great admiration of his talents and his character, and sent him a message by a confidential friend that, "desiring to enjoy retirement for the rest of his life, he had no wish for any office, but that in the present situation of the King, and distressed state of the country, he would cheerfully take any office in which it might be thought he could be useful." His name and experience were likely to be of great benefit to Mr. Pitt at this moment,—particularly as Lord Temple, after holding the Seal of Secretary of State for a few days, had thrown it up. The Presidency of the Council, with high rank and little work, was thought the post which would be most suitable and agreeable to Lord Gower. He was accordingly appointed to it, and held it during the stormy session which ensued, when the young minister, supported by the King and the nation, fought his gallant fight against the combined bands of Tories and Whigs who had vowed his destruction.

Although the rejection of the India Bill by the Lords had put an end to the "Coalition Ministry," there was perfect tranquillity in their House for the rest of the session, while the storm was raging in the House of Commons—inasmuch that Lord Camden, although prepared to support the new Administration, had no occasion to come forward once in their defence. When the session was closed by a prorogation, and, parliament being dissolved, the people pronounced decidedly against the Coalition, Mr. Pitt's difficulties were over, and he was in the proudest situation ever occupied by a minister under an English sovereign.

Lord Gower's assistance might now have been dispensed with, but his taste of office had pleased him, and he felt no inclination to withdraw again into private life. Lord Camden would not put the Government to any inconvenience by an impatient desire to resume his office, and during the recess he paid a long visit to Ireland, with the double object of seeing his favourite daughter, and of acquiring information to enable him to assist in carrying the important measures which the minister was about to bring forward for the establishment of a free trade between the two countries.

While there he wrote the Duke of Grafton the following letter on Parliamentary Reform, giving a most interesting view of the state of public feeling among the Irish, after they had obtained "independence:"—

“There is one question which seems to have taken possession of the whole kingdom, and that is the reform of parliament—about which they seem very much in earnest. Those who wish so much for that reformation at home, cannot with much consistence refuse it to Ireland, and yet their corrupt parliament must be considered the only means we have left to preserve the union between the two countries. But that argument will not bear the light, and no means ought, in my opinion, to be adopted too scandalous to be avowed. I foresaw when we were compelled to grant independence to Ireland the mischief of the concession, and that sooner or later a civil war would be the consequence—a consequence ruinous to England, but fatal to Ireland, for she must at all events be enslaved either to England or France. This people are intoxicated with their good fortune, and wish to quarrel with England to prove their independence. Big with their own importance, and proud of their ‘Volunteers,’ they are a match, as they imagine, for the whole world. But as Galba describes the Romans,—‘Nec totam servitutem pati possunt, nec totam libertatem.’ This misfortune would never have happened if our government had not been tyrannical and oppressive.”

On Lord Camden’s return to England, a negotiation was opened for his restoration to the Cabinet. He consented on the condition that an effort should be made to induce his old chief, the Duke of Grafton, to join the Administration. Mr. Pitt was pleased with the proposal, for he still professed himself to be a stout Whig, and he wished to have some counterbalance in his government to the Sidneys, the Gowers, and the Thurlows. The plan was to transfer Lord Gower to the Privy Seal, and to make Lord Carmarthen resign his office of Secretary of State. Lord Camden thus writes to the Duke of Grafton, giving him an account of the negotiation:—

“Mr. P. told me he had mentioned to Lord G. his wish that he would consent to exchange his office for the Privy Seal, and believed he should find no difficulty in obtaining that compliance; that he had not yet found an opportunity of sounding L<sup>d</sup> C., as it was not easy for him to make such a proposal as might tempt him to retire from his present situation, but that it was upon his mind, and that your Grace as well as myself might be assured the very moment any vacancy in the Cabinet could be procured that your Grace would condescend to accept, it should be done. I must do Mr. Pitt the justice to say he expressed as earnest a desire as myself to a close and intimate political conjunction with your Grace, and saw clearly the great utility of the Cabinet having so clear a Whig complexion as our accession would give it.”

In a subsequent letter, Lord Camden, after speaking of the negotiation for the resignation of Lord Carmarthen, says,—

“If that difficulty is removed, I should hardly allow your Grace’s plea of disability, or fear, to undertake so arduous an employment to have the weight of an insurmountable objection. If that was sufficient in your Grace, who are now in the very vigour of your age and the ripeness of your understanding, to warrant a refusal, what can be said to me, who am in the last stage of life, when both mind and body are in a state of decline, and are every day tending towards total incapacity? In reality, such is my backwardness to embark in business, that nothing but the comfort of your Grace’s support and co-operation could have prevailed upon me to alter my determined purpose (for so it was till I was overruled) for final retirement. And I am afraid, if I know my own feelings, I should perhaps be pleased at my heart, and almost thank your Grace, if you should, by withdrawing yourself, give me an honest excuse for breaking off.—I have read the Dean of St. Asaph’s trial, and confess I have seen nothing libellous in the paper, and am, besides, more displeased with Judge Buller’s behaviour than I was formerly with Lord Mansfield’s. Something ought to be done to settle this dispute: otherwise the control of the press will be taken out of the hands of the juries in England, and surrendered up to the Judges.”

It was found impossible to prevail on Lord Carmarthen to retire. This disappointment Lord Camden communicated in a letter to the Duke of Grafton, in which, after stating that no vacancy could then be made for him in the Cabinet, he thus proceeds:—

“And now, my dear Lord, what part does it become me to take? I don’t ask your advice, because I have taken my part already, and have agreed to come in; but I will state my own difficulties, and the true reason that prevailed upon me, at last, to accept. I am more averse than ever to plunge again into business in the last stage of my life. I do not like the Cabinet, as composed: the times are full of difficulty, and the C. not much inclined to persons of our description. Add to this, my own aversion to business, now almost constitutional from a habit of indolence; and, above all, the want of your Grace’s support, the only circumstance that made me enter into this engagement after I had, over and over again, given a positive denial. These, you must allow, were weighty considerations; and yet, though, I was fairly released by Mr. Pitt’s failing to make that opening he had engaged to make, and your Grace’s postponing your acceptance till the end of the session, yet, when I consider that Mr. Pitt would be cruelly disappointed and perhaps, in some sort, disgraced upon my refusal, after he had engaged Lord Gower to exchange his office, and that I was pressed in the strongest manner by all my friends, and more particularly by your Grace, who was pleased to think my coming forward would be useful to the public, and help to establish the Administration, I took the resolution to vanquish my reluctance, and to sacrifice my own ease to the wishes of other men.”

It was still some weeks before the arrangement was completed, and then Lord Camden, after informing the Duke of Grafton that Lord Gower had at last actually exchanged the Presidency of the Council for the Privy Seal, adds:—

“I am now called upon to fill up the vacancy. I go to it with a heavy heart, being separated from your Grace, with whom I had intended to have closed my political life—*iterum versus civilibus undis*, at a time of life when I ought to have retired to a monastery; but as the die is cast, I will go to the drudgery without any more complaining, and do my best: as I have lost all ambition, and am happily not infected with avarice, and as my children are all reasonably provided for according to their rank and station, I can have no temptation to do wrong; and therefore though, in my present situation when I do not ask the employment but am solicited to accept it, I might, after the fashion of the world, put some price upon myself, I am determined neither to ask nor to accept any favour or emolument whatever for the sacrifice of my own ease.

“I have employed myself of late in examining with some attention the proceedings of the Court of King’s Bench in the libel cause of the Dean of St. Asaph, thinking it probable it might have been brought by writ of error into our House; but they have taken care to prevent that review by arresting the judgment, and so the great question between the Judge and the jury in this important business is to go no further, though it is now strengthened by a solemn decision of the Court, which never happened before. This determination, in my poor opinion, strikes directly at the liberty of the press, and yet is likely to pass *sub silentio*. The newspapers are modest upon the subject, because Mr. Erskine is not to be commended by one party, or Lord Mansfield run down by the other. Thus your Grace sees that public spirit is smothered by party politics.”

Lord Camden, notwithstanding some affectation of reluctance, very cheerfully resumed his office of President of the Council, and continued to fill it during a period of nine years, always co-operating most harmoniously and zealously with the “Heaven-born Minister,” who, although he began to be nicknamed “Billy Pitt the Tory,” and although his zeal for reform did cool considerably, cannot be accused of bringing forward any measure which a Whig might not have supported, till the aged Lord President had disappeared from the scene.

The session of 1785 was chiefly occupied with the measures to establish free trade with Ireland, which were so creditable to their author—the first English minister who was a pupil of Adam Smith. However, they were furiously opposed by the English manufacturers, with

Mr. Peel, the father of the great Sir Robert, at their head,—foretelling entire ruin to England if the laws against the importation of Irish manufactures were removed,—as, from the low price of labour and the lightness of taxation in Ireland, cotton might be spun, muslin woven, and every sort of fabric finished there at an infinitely cheaper rate than in England;—so that, if the proposed abolition were agreed to, English industry would be paralysed, grass would grow in the streets of Manchester, and we should become a nation of paupers. Mr. Peel threatened that he would remove, with his capital and his family, to the sister isle, which was thus to be so highly favoured at the expense of the mother country. In the House of Lords, these views were zealously supported by Lord Stormont and other Peers. But the resolutions were defended, in a masterly speech, by Lord Camden. He said,—

“That, to his knowledge, nothing but the strongest necessity could have induced the Minister to undertake a measure so weighty, which, however conducted, was sure to be productive of murmurs and discontent among many who, upon all other subjects, were disposed to be his warmest supporters.”

He then drew an affecting picture of the present wretchedness of Ireland—he described her great natural advantages—he explained her wrongs—he sought to create alarm by her loud demands of redress:—

“The tranquillity of the empire,” said he, “is at stake. The Irish will next lay their grievances at the foot of the throne; and importune the Sovereign of both countries to take part with the one against the interest, or rather the prejudices, of the other. Here is the foundation of a civil war. Does it not become the providence of the Government to guard against such an emergency? The discontents of the Irish are in proportion to their sufferings.”

Having detailed the proposed regulations for establishing free trade between the two islands, he considered the objections to them:—

“With respect to the argument of cheapness of labour, which has given such terrors to the manufacturers,” he observed, “I confess I see it without alarm. This cheapness of labour must only continue during the rudeness of art; and, in the meanwhile, the rich and manufacturing country must enjoy the benefits of superior skill. There the finished article will still be cheaper. As to Mr. Peel, and the other intelligent witnesses examined at your bar, who threaten to emigrate to Connaught,

I feel no uneasiness. If they really should form spinning establishments in that wild region, they may do much to civilise and improve it; and in Lancashire their place may be supplied by others equally enterprising and respectable. They are not more reasonable than our manufacturers of silk and iron, who call upon us to lay such duties upon these articles, when exported from Ireland, that the Irish may be excluded from competition in supplying them to the American market. These requests may all be traced to their true source—the itch of monopoly. Let us not have protecting duties on one side of the water, with retaliating prohibitions on the other, which will foster growing enmity between us, to the delight and aggrandizement of our common enemies.”

Still there were thirty votes in the negative; and a protest was signed, I am sorry to say, by Lord Derby, Lord Fitzwilliam, and other Whig Peers.

When Mr. Pitt again brought forward his motion for a Reform in Parliament, Lord Camden gave him all the assistance and encouragement in his power; and the following letter, urging the Duke of Grafton to compel one of his members, who was rather doubtful, to vote for the measure, affords, I think, strong evidence of the Premier's sincerity:—

“ My dear Lord,

“ I find myself under a necessity of troubling your Grace, at Mr. Pitt's request, upon a question which I have always thought of the highest importance to the Constitution, I mean the Reform of Parliament. And, if your Grace thinks upon the subject as I do, you will lend your aid by imparting your wishes to such of your friends as are likely to pay attention to your opinion. Mr. Pitt is not assured how Mr. Hopkins stands inclined to this measure, but is very anxious to obtain his concurrence, unless he is really and conscientiously averse to it. At least he wishes, and would think that he may not unreasonably hope, that he would give his vote for bringing in the Bill. When I have said this, I have said all that becomes me to say on this occasion, adding only that Mr. Pitt's character, as well as his administration, is in some danger of being shaken, if his motion is defeated by a considerable majority. I do confess myself to be warmly interested in the event, upon every consideration, and that, perhaps, is the best apology I can make your Grace for giving you this trouble, leaving it entirely to your own wisdom to judge how far it would be fitting or agreeable to your Grace to communicate your wishes to Mr. Hopkins.

“ I am,” &c.

I will here introduce two letters written at this time, showing, in an amusing manner, how an application used to be made, and evaded, to promote a Bishop. The individual

to be translated was Hinchcliffe, who, since the year 1769, had held the poor see of Peterborough, where he had been placed by the Duke of Grafton, when Premier. The first letter is to his Grace from Lord Camden :—

“I was forced to wait some days before I could meet with an  
 Feb. 5, opportunity of conferring with Mr. Pitt, and when he  
 1786. had, after a full conversation, explained himself, though I think I perfectly understood the substance, I would not venture to put my own sense upon his words. I begged that he would at his first leisure put it down in writing—which I have this day received. But I should not care to send it by the common post, unless I should have your Grace’s commands for that purpose. To say the truth, I do wonder a little upon reflection, that we have hazarded our correspondence as we have done by the post. I will only add, that the answer, as far as I can judge, will give your Grace satisfaction. Courtly expressions and complimentary civility are of course, and go for nothing; but I am much mistaken indeed if Mr. P. is not as sincere in his intentions as he is cordial in his expressions.”

The following is the Prime Minister’s courteous and cautious reply :—

“Downing Street, Feb. 4, 1786.

“My dear Lord,

“In answer to the communication your Lordship was so good to make to me from the Duke of Grafton, I should be greatly obliged to you if you will assure him that, from the desire I entertain of showing every possible attention to his Grace’s wishes, he may rely on my being happy to find an opportunity of recommending the Bishop of Peterborough to his Majesty for advancement on the Bench. His Grace not having particularly mentioned any specific object, and it being difficult to foresee the arrangements which may be taken till a vacancy happens in some of the most considerable sees, I can do no more than express my general inclination to meet his Grace’s wishes as far as circumstances will allow. Indeed I think there is every reason to suppose that in the course of no very long time openings must occur which may admit of some desirable promotion being proposed to the Bishop, and it will give me great pleasure whenever it can be done to his Grace’s satisfaction.

“I am ever,

“My dear Lord,

“With great attachment and regard,

“Most sincerely yours,

“W. PITT.



As might have been foreseen, Hinchcliffe lived and died Bishop of Peterborough.<sup>4</sup>

On the 13th of May, 1786, Lord Camden's services to the Minister were recognised by his being raised in the peerage: he was created Viscount Bayham, of Bayham Abbey, in the county of Sussex, and Earl Camden.

His chief antagonist in the House of Lords, in his later years, was Lord Loughborough, who was in hot <sup>A.D. 1786—</sup>opposition from the dissolution of the "Coalition <sup>1788.</sup> Ministry," till he went over with the "Alarmists" at the commencement of the French Revolution. Against him he ably defended the East India Judicature Bill,<sup>5</sup> the Excise Bill,<sup>6</sup> and other measures of Government; but Mr. Pitt's ascendancy was now so triumphant, that the Lords had little to do but to amuse themselves with Mr. Hastings's trial, and they had no other debate of permanent interest till the nation was thrown into consternation and confusion, in the year 1788, by the King's illness.

## CHAPTER CXLVII.

### CONTINUATION OF THE LIFE OF LORD CAMDEN TILL THE BREAKING OUT OF THE FRENCH REVOLUTION.

WHEN the Sovereign, supposed to be upon the throne, with the sceptre in his hand, ruling his people, was actually in a strait waistcoat, under the control of <sup>A.D. 1788.</sup> keepers,—the royal authority being in complete abeyance,

<sup>4</sup> However, he was solaced with the Deanery of Durham.

<sup>5</sup> 26 Parl. Hist. 131.

<sup>6</sup> Being then in his 72nd year, he took occasion to declare that his youthful sentiments in favour of the liberty of the subject remained unaltered. "I allow that the extension of the excise laws is dangerous, and fraught with multifarious mischiefs. It unhinges the constitutional rights of juries, and violates the popular maxim that 'every man's house is his castle.' I have long imbibed these principles; I have been early tutored in the school of our

constitution, as handed down by our ancestors, and I shall not easily get rid of early predilections. They still hang hovering about my heart. These are the new sprouts of an old stalk. Trial by jury is indeed the foundation of our free constitution; take that away, and the whole fabric will soon moulder into dust. These are the sentiments of my youth,—inculcated by precept, improved by experience, and warranted by example. Yet, strange as it may appear to your Lordships, the necessity of the case obliges me to give my assent to the present bill," &c.—26 Parl. Hist. 177.

some measures were indispensably necessary for the purpose of reviving it. Mr. Pitt, aware of Lord Thurlow's intrigue with Carlton House to retain the Great Seal in case of a Regency, placed all his confidence in Lord Camden for carrying through his plan,—whereby the two Houses were to assert their right to provide as they should think fit for the exercise of the prerogatives of the Crown, and a bill was to be passed, according to the usual forms of the Constitution, appointing the Prince of Wales Regent, under severe restrictions,—to disable him, as much as possible, from conferring favours on the political party to which his Royal Highness was attached.

On the 20th of November, the day on which Parliament met after the prorogation, the Chancellor having announced the royal indisposition, Lord Camden moved an adjournment for a fortnight,—and that a letter of summons should be written to every Peer, requiring his attendance. In the meanwhile he presided at a meeting of Privy Council, attended by all Privy Councillors of whatever party,—at which the King's physicians, being examined, all agreed that he was wholly incapable of meeting Parliament or attending to public business, but differed as to the probability of his recovery. On the appointed day, Lord Camden laid the examinations before the House. When they had been read, he observed, —

“ The melancholy state of his Majesty's health is sufficiently evinced ; and as the physicians cannot give your Lordships any assurance as to the time when he may recover, it is incumbent on the two Houses of Parliament to proceed to make some provision to supply the deficiency in the legislature, and to restore energy to the executive government. Yet, previously to such a necessary and important step, I shall take the liberty of moving for a committee to search for precedents in similar cases. According to rumour, it had been laid down in another place ‘ that the course of proceeding under such circumstances was prescribed by the common law and the spirit of the constitution, viz. that the heir apparent, being of age, was entitled to assume the legal authority as a matter of right, and to exercise it as long as his Majesty's disability shall continue, as upon a demise of the Crown.’—If this be the common law, it is an entire secret to me. I never read or heard of such a doctrine. Those that broached it should have been ready to cite their authorities. They may raise expectations not easily laid, and may involve the country in confusion. The assertion of this doctrine, however, is a strong argument in favour of my motion, for we shall thus have an ample opportunity of considering the precedents on which it rests.”

Lord Loughborough mentioned the extraordinary assertion hazarded elsewhere, "that the Prince of Wales, the heir apparent to the throne, has no more right to take upon himself the government during the continuance of the unhappy malady which incapacitates his Majesty than any other individual subject,"—contending that an elective regency was inconsistent with an hereditary monarchy. Thurlow at this moment thought it convenient to deny the Prince's right,—and after a short reply from Lord Camden his motion was carried.\*

On the 23rd of December, after the report of the committee, Lord Camden moved the Resolution "That it is the right and duty of the Lords spiritual and temporal, and Commons of Great Britain, now assembled, and lawfully, fully, and freely representing all the estates of the people of this nation, to provide the means of supplying the defect of the personal exercise of the royal authority, arising from his Majesty's indisposition, in such manner as the exigency of the case may appear to them to require." After a long debate, it was carried by a majority of 99 to 66, and was followed by another resolution, moved by Lord Camden, "That it is necessary for the two Houses to determine in what manner the royal assent shall be given to a bill for settling the regency."<sup>u</sup>

On a subsequent day, he moved "That for the purpose of providing for the exercise of the King's royal au-  
Jan. 22,  
1789.  
 thority during the continuance of his Majesty's illness, in such manner and to such extent as the circumstances of the nation may appear to require, it is expedient that his Royal Highness the Prince of Wales, being resident within the realm, be empowered to exercise and administer the royal authority in the name and on the behalf of his Majesty subject to such limitations and exceptions as shall be provided." He thus began:—"It is with deep concern that I find a task of such unprecedented weight has devolved upon me. I stand up most reluctantly to address your Lordships on this occasion, feeling every day stronger and stronger reasons to wish to retire from the hurry of business to repose and contemplation. I trust, my Lords, that this is the last act of my political life. I must not shrink from my duty, for the safety of the monarchy and the public tranquillity are at stake." Having recapitulated the proceedings that had

\* 27 Parl. Hist. 664-676.

<sup>u</sup> Ib. 353.

been taken since his Majesty's illness began, and the resolutions of the two Houses respecting their right to appoint a Regent with such powers as they might confer upon him, he detailed the plan of regency which the Ministers proposed, explaining and defending the regulations for the custody of the King's person, for preserving the household appointments as they then stood, and for preventing the Regent from creating Peers. He allowed that the Heir Apparent was the fittest person for the two Houses, in their discretion, to select for Regent; but insisted on the propriety of putting him under restrictions while there was any probability of his Majesty being restored to the throne. The objection, that inconvenience might arise from so materially curtailing the power and patronage of the Crown, he answered by observing that "if the Regent's administration was conducted on good principles, it would meet with general support; and if its measures were unconstitutional, there should be no facility given to carrying them through." Notwithstanding powerful arguments to show that our constitution might suffer serious detriment from the election of a Regent by the two Houses, with such powers as they were pleased to bestow upon him, and from tampering with the prerogatives of the Crown, which were not supposed to be greater than were necessary to carry on the government for the public good, Lord Camden carried his motion by a majority of 94 to 68; but a strong protest was signed by the Duke of York and almost all the Peers who voted in the minority.\*

Lord Camden's next speech was respecting the *mode* in which the Regent should be "elected or appointed." He declared that, "amidst a choice of evils, the proposal of his Majesty's ministers, which he was to explain, appeared to him to be the least objectionable, and most fit to be adopted, because the most reconcileable to the principles [*quære*, forms?] of the constitution. He was open to conviction, and was ready to adopt any other which their Lordships might deem preferable; but something must immediately be done to resuscitate the legislature, and to rescue the people from the condition—of which they were beginning loudly to com-

\* 27 Parl. Hist. 1075—1094. In the course of this debate Lord Camden got into a scrape, in obviating the objection to the suspension of the power of making Peers, by saying, that 'on any urgent call for a peerage it might be

conferred by Act of Parliament"—a proceeding which appeared to their Lordships so unconstitutional and republican, that he was obliged to explain and retract.

plain—of being without a government. He was aware that the plan he was to recommend had already been made the subject of much ridicule. ‘A phantom!’ ‘a fiction!’ ‘a forgery!’ and various other contemptuous appellations, had been bestowed upon it. Let those who objected to it in this House show how, otherwise, the constitution could again be put into a state of vigour and activity. The delay that had already taken place had revolted the public mind, and the nation loudly called on Parliament to interpose its authority. But, circumstanced as it at present was, Parliament could not take a single step;—without the King, it was a mere headless, inanimate trunk;—the royal assent was essential to legislation. The King upon his throne in that House, or by Commissioners appointed under the Great Seal, must sanction their proceedings,—which otherwise had no legal operation. The first step to be taken was to open the parliament by the King’s authority. The law declared that, in person or by representative, the King must be there, to enable them to proceed as a legislative body. That his Majesty, from illness, could not attend personally, was a fact too well known to be disputed. When the King could not attend personally, the legal and constitutional process was, to issue letters patent under the Great Seal. In the present dilemma, therefore, he recommended that the two Houses should direct letters patent to be issued, under the Great Seal, authorising Commissioners to open parliament in the name of his Majesty. He must use the liberty to say, that those who treated this proposal with ridicule were ignorant of the laws of their country. A ‘fiction’ it might be termed, but it was a fiction admirably calculated to preserve the constitution, and, by adopting its forms, to secure its substance. Such a commission being indispensable, by whom was it to be ordered? The King’s sign-manual, the usual warrant for it, could not be obtained. Would it be said that the Prince of Wales could command the Lord Chancellor to put the Great Seal to the commission? Both Houses had recently resolved that the Heir Apparent has no such right. Would the Lord Chancellor himself venture to do it, of his own accord? Undoubtedly, he would not. The commission must be ordered by some authority, for, being once issued with the Great Seal annexed to it, it commanded implicit obedience, and the law would admit no subsequent inquiry respecting its validity. He was of opinion that it was in the

power of the two Houses to direct the Great Seal to be put to the commission, and in their power only. The Great Seal was the high instrument by which the King's *fiat* was irrevocably given; it was the *clavis Regni*, the mouth of royal authority, the organ by which the Sovereign spoke his will. Such was its efficacy, that even if the Lord Chancellor, by caprice, put the Great Seal to any commission, it could not afterwards be questioned. In so doing he would be guilty of a misdemeanor, but the Judges must give effect to it.' If an act of parliament receive the royal assent by a commission under the Great Seal, '*Le Roy le voet*' being so pronounced, it is added to the statute-book, and becomes the law of the land, which no one may question. Thus the '*phantom*' would prove a substantial benefit, and the '*fiction*' would end in the reality which all good men desired." His Lordship then went on to explain, and to rely upon, the precedent at the commencement of the reign of Henry VI., when, the Sovereign being an infant of nine months old, the Great Seal was placed in his hand, or his hand was placed on the Great Seal, and it was supposed to be given by him to the Master of the Rolls; whereupon many commissions were sealed by it, and the government was carried on under its authority. He concluded by moving, "That it is expedient and necessary that letters patent for opening the Parliament should pass under the Great Seal."\*

At the request of the Duke of York, Lord Camden agreed that the names of the Prince of Wales and of the other princes of the blood should be omitted from the commission, as they all condemned this mode of proceeding, and the motion was carried without a division. Accordingly, on the following day, a commission, under the Great Seal, was produced in the name of his most gracious Majesty George III., by which his Majesty was made to declare, that, "*it not being convenient for him to be personally present*, he authorised certain Commissioners to open the Parliament in his name, and to declare the causes of Parliament being summoned by him." The Commons attending at the bar of the House of Lords to hear the commission read, the Commissioners declared the causes of the summons to be, "to provide for the care of his Majesty's royal person, and for the administration of the royal authority." The two Houses did not go through the form of agreeing upon an humble address to his Majesty,

\* Till repealed by *scire facias*

\* 27 Parl. Hist. 1123—1123.

in answer to his gracious speech by his Commissioners; but the Regency Bill was immediately brought in. "The Phantom" did not a second time appear to make the bill a law; for, after it had passed the Commons, and while it was in committee in the Lords, it was stopped by the King's convalescence; and George III. remained above twenty years on the throne before there was such a recurrence of his malady as to render it necessary to resort to similar proceedings.<sup>a</sup>

From the course then adopted, and carried through, I presume, it is now to be considered part of our constitution, that if ever, during the natural life of the Sovereign, he is unable, by mental disease, personally to exercise the royal functions, the deficiency is to be supplied by the two Houses of Parliament, who, in their *discretion*, will probably elect the heir apparent Regent, under such restrictions as they may please to propose,—but who may prefer the head of the ruling faction, and at once vest in him all the prerogatives of the Crown. On the two occasions referred to in the reign of George III., the next heir being at enmity with the King and his ministers, this was considered the loyal and courtly doctrine, and, from its apparent advancement of the rights of Parliament, there was no difficulty in casting odium upon those who opposed it: but I must avow that my deliberate opinion coincides with that of Burke, Fox, and Erskine, who pronounced it to be unsupported by any precedent, and to be in accordance with the principles of the Polish, not the English, monarchy. The two Houses of Parliament would be the proper tribunal to pronounce that the Sovereign is unable to act; but then, as if he were naturally, as well as civilly, dead, the next heir ought, as of right, to assume the government as Regent, ever ready to lay it down on the Sovereign's restoration to reason,—in the same way as our Lady Victoria would have returned to a private station if, after her accession, there had appeared posthumous issue of William IV. by his Queen. It is easy to point out possible abuses by the next heir as Regent, to the prejudice of the living Sovereign,—but there may be greater abuses of the power of election imputed to the two Houses, whereby a change of dynasty might be effected. I conceive, therefore, that the Irish Parliament, in 1789, acted more constitutionally in acknowledging the *right* of the next heir,—in scouting the fiction of a commission, or royal assent, from the

<sup>a</sup> 27 Parl. Hist. 1297. See Parl. Deb. xviii. 830, 1102; ante, vol. i. p. 20.

insane Sovereign,—and in addressing the Prince of Wales to take upon himself the government as Regent.

After the King's recovery, Lord Camden adhered (with one memorable exception) to the resolution he had announced, that, on account of his advanced age, he would no longer take part in the debates of the House of Lords; but he remained in his office, and steadily supported the Administration by his counsels. It has been suggested that, in his extended connection with Mr. Pitt, he abandoned the liberal principles for which he had so long struggled. But this charge is, I think, entirely without foundation. He had been called away to a better state of existence before the commencement of the trials for high treason which disgraced the country in the end of the year 1794,—and I am not aware of any measure adopted with his sanction which might not have been brought forward under Lord Chatham or Lord Rockingham. Bishop Watson accuses him of an entire subserviency at this time to the supposed illiberal policy of the Government. "I asked him," says the Bishop, "if he foresaw any danger likely to result to the Church establishment from the repeal of the Test and Corporation Acts; he answered at once, '*None whatever* ; Pitt was wrong in refusing the application of the Dissenters, but he must now be supported.'"<sup>a</sup>—I never attach much importance to what is supposed to have fallen from any man in the laxity of private talk; but supposing this reminiscence to be quite correct, and that no qualification or circumstance to vary the effect is forgotten, might not the President of the Council, without sacrificing the Dissenters or his own consistency, hesitate about breaking up the Government on their account, and wait for a more favourable opportunity to do them justice? The Bishop might have been softened by another anecdote which he relates of Lord Camden about the same time:—"I remember his saying to me one night when Lord Chancellor Thurlow was speaking, contrary, as I thought, to his conviction, '*There now, I could not do that; he is supporting what he does not believe a word of.*'"<sup>b</sup>

Lord Camden, like many very sincere and steady friends of liberty, was much appalled by the excesses of the French Revolution, and was alarmed lest our free institutions, the growth of ages, and the result of reason and experience, might be endangered by reckless Jacobin innovation. Any expressions which he might use while labouring

A.D. 1791.

<sup>b</sup> Bishop Watson's Memoirs, p. 162.



under such impressions are not to be nicely weighed for the purpose of making out a charge of inconsistency against him. Burke having sent him a copy of his "Appeal from the New to the Old Whigs," received from him the following answer :—

"Brighton, August 5, 1791.

"Sir,

"I have received with great pleasure your last publication, which, as it professed to be sent by the author, I determined to read through with the utmost attention, that I might afterwards proportion my thanks to the value of the present.\* I have done so, and am ready to declare my perfect concurrence in every part of the argument, from the beginning to the end, and return you my warmest thanks for presenting me with so valuable a performance, though perhaps my acknowledgment of its merit may lose some part of its grace by my being an interested party, as I am, in the success of the doctrine. The commendation of one convert (and I have no doubt there will be many) would be a stronger testimony of its value than the applause of hundreds that needed no conviction. I, for instance, like many others, have always thought myself an old Whig, and hold the same principles with yourself; but I suppose none, or very few of us, ever thought upon the subject with so much correctness, and hardly any would be able to express their thoughts with such clearness, justness, and force of argument. I am therefore, as well as them, better instructed how to instruct others than I was before.

"There is only one passage in your book that gives me the least concern, and that is where you talk of retiring from public business. For though, as a member of the Administration, I might be well enough pleased at the Opposition's losing one of its ablest assistants, yet I shall be sorry to see the Parliament deprived of so strenuous an advocate for the constitution.

"As an old Whig therefore, and not as a minister, give me leave to subscribe myself,

"Your most obliged and obedient servant,

"CAMDEN."

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\* I must confess that, for conscience sake, I follow just the opposite rule—always returning thanks when I have read the title-page.

## CHAPTER CXLVIII.

## CONCLUSION OF THE LIFE OF LORD CAMDEN.

LORD CAMDEN showed his sincere and unabated attachment to his early political principles by his zealous support of Mr.

A.D. 1791. Fox's Libel Bill, which otherwise never would have passed the House of Lords. Near the close of the session of 1791 Thurlow threw it out, under pretence that there was not time to consider it, but not before Lord Camden had made an admirable speech in its favour, showing that the jury were the proper judges of the seditious tendency of any writing called a seditious libel. He said,—“ I have long endeavoured to define what is a seditious libel, but have not been able to find any definition which either meets the approbation of my own mind, or ought to be satisfactory to others. Some judges have laid down that any censure of the government is a libel. Others say, that it is only groundless calumnies on government that are to be considered libels; but is the judge to decide as a matter of law whether the accusation be well or ill founded? You must place the press under the power of judges or juries, and I think your Lordships will have no doubt which to prefer.”<sup>d</sup>

In the following year the bill again came up from the Commons, and Thurlow did his best to defeat it. He summoned the judges, and obtained from them an unanimous opinion that the question of “ libel or no libel ? ” was one of pure  
A.D. 1792. law, for the Court alone,—and two law Lords, Lord Bathurst, an ex-Chancellor, and Lord Kenyon, the Chief Justice of the King's Bench, combined with him to extinguish the rights of juries. But the veteran champion of those rights was undaunted. “ Nothing can be more refreshing to the lovers of liberty, or more gratifying to those who venerate the judicial character, than to contemplate the glorious struggle for his long-cherished principles with which Lord Camden's illustrious life closed. The fire of his youth seemed to kindle

in the bosom of one touching on fourscore, as he was impelled to destroy the servile and inconsistent doctrines of others—slaves to mere technical lore, but void of the sound and discriminating judgment which mainly constitutes a legal, and above all a judicial mind.”<sup>e</sup>

In the memorable debate which decided the fate of the bill,—rising in his place slowly and with difficulty,—still leaning on his staff, he thus began :—“I thought never to have troubled your Lordships more. The hand of age is upon me, and I have for some time felt myself unable to take an active part in your deliberations. On the present occasion, however, I consider myself as particularly, or rather as personally, bound to address you—and probably for the last time. My opinion on this subject has been long known ; it is upon record ; it lies on your Lordships’ table ; I shall retain it, and I trust I have yet strength to demonstrate that it is consonant to law and the constitution.” His voice, which had been at first low and tremulous, grew firm and loud, and all his physical as well as mental powers seemed animated and revived. He then stated, with his wonted precision, what the true question was, and he argued it with greater spirit than ever. Alluding to his favourite illustration, from a trial for murder, he said, “A man may kill another in his own defence, or under various circumstances, which render the killing no murder. How are these things to be explained?—by the circumstances of the case. What is the ruling principle?—The intention of the party. Who decides on the intention of the party ? The judge ? No ! the jury. So the jury are allowed to judge of the intention upon an indictment for murder, and not upon an indictment for a libel !!! The jury might as well be deprived of the power of judging of the fact of *publication*, for that, likewise, depends upon the *intention*. What is the oath of the jury ? Well and truly to try the *issue joined*—which is the plea of *not guilty* to the whole charge.” In going over the cases, when he came to *Rex v. Owen*, in which he gained such distinction as counsel for the defendant, he explained how he had been allowed to address the jury, to show the innocence of the alleged libel. “Then,” said he, “came *Rex v. Shebbeare*, where, as Attorney-General, I conducted the prosecution. I went into court predetermined to insist on the jury taking the whole case into their consideration ; and so little did I attend to the authority of the judges, that, in arguing the character of the libel, I turned my back upon them,

<sup>e</sup> Lord Brougham’s *Lives of Statesmen*, iii. 178.

directing all I had to say to the jury-box. In the days of the Charleses and Jameses, the doctrine now contended for would have been most precious; it would have served as an admirable footstool for tyranny. So clear is it that the jury are to decide the question of '*libel or no libel?*' that if all the bench, and all the bar, and the unanimous voice of Parliament, were to declare it to be otherwise, I could not change my opinion. I ask your Lordships to say, who shall have the care of the liberty of the press? The judges, or the people of England? The jury are the people of England. The judges are independent men! Be it so. But are they totally beyond the possibility of corruption from the Crown? Is it impossible to show them favour in any way whatever? The truth is, they possibly may be corrupted—juries never can! What would be the effect of giving judges the whole control of the press? Nothing would appear that could be disagreeable to the Government. As well might an act of parliament pass, that nothing shall be printed or published but panegyrics on ministers. Such doctrines being acted upon, we should soon lose every thought of freedom. If it is not law, it should be made law—that in prosecutions for libel, the jury shall decide upon the whole case. In the full catalogue of crimes, there is not one so fit to be determined by a jury as libel." Before he concluded, he took an opportunity to pay a just tribute of respect to his old rival, Lord Mansfield, now almost in the tomb, into which he himself was so soon to follow him. "Though so often opposed to him," said he, "I ever honoured his learning and his genius; and, if he could be present, he would bear witness that personal rancour or animosity never mixed with our controversies. When, after this last effort, I shall disappear, I hope that I, too, may have credit for good intentions with those who differ from my opinions, and that perhaps it may be said, '*through a long life he was consistent in the desire to serve his country.*'" This speech was warmly complimented by all who followed, on both sides, in a two-nights' debate, and gained a majority of 57 to 32 for the second reading of the bill.

The general expectation was, that it would be allowed to pass silently through its subsequent stages; but Thurlow trying to damage it in committee by a nullifying amendment, Lord Camden was again called up, saying, that "he would contend for the truth of his position, as to the right of juries in cases of libel, to the last hour of his existence, *manibus pedibus*—

que." When he had reiterated his argument, the amendment was rejected.

*Lord Chancellor.*—"I trust the noble and learned Lord will agree to a clause being added to the bill, which he will see is indispensably necessary to do equal justice between the public and those prosecuted for libels. This clause will authorise the granting of a new trial, if the Court should be dissatisfied with a verdict given for the defendant."

*Earl Camden.*—"What! after a verdict of acquittal?"

*Lord Chancellor.*—"Yes!"

*Earl Camden.*—"No, I THANK YOU!!!"

These were the last words he ever uttered in public. The bill, in its declaratory form, was then suffered to pass through the committee, and to be read a third time; Lords Thurlow, Bathurst, and Kenyon, signing a strong protest against it. This is to be honoured as a great example of a law Lord boldly declaring and acting upon his own deliberate and conscientious conviction upon a question of law, contrary to the unanimous opinion of the judges when asked their advice for the assistance of the House.—Now that the mist of prejudice has cleared away, I believe that English lawyers almost unanimously think that Lord Camden's view of the question was correct on strict legal principles; and that the act was properly made to *declare* the right of the jury to determine upon the character of the alleged libel, instead of *enacting* it as an innovation.

No law ever operated more beneficially than that which had been so long and so violently opposed by legal dignitaries. It put an end to the indecent struggle, in trials for libel, between the judge and the jury, which had agitated courts of justice near a century; it placed the liberty of the press on a secure basis; all the predictions that it would encourage seditious publications and attacks on private character have been falsified; and we have now the best definition of a libel—"a publication which, in the opinion of twelve honest, independent, and intelligent men, is mischievous and ought to be punished." The bill bears the name of Mr. Fox, because he introduced it into the House of Commons, while the merit of it is claimed by the admirers of Erskine on account of his glorious fight for the rights of juries in the case of the Dean of St. Asaph; but Pratt had struggled successfully for its principle long before these names were ever heard of, and to him we must ascribe

its final triumph.\* His perseverance is the more meritorious, as he might have had a plausible pretext for taking a contrary course, from the multiplication of seditious writings, and the democratic movement then supposed to threaten the public tranquillity; but he wisely thought that the vessel of the state is best prepared to encounter a storm by making a *jettison* of abuses.

Lord Camden survived two years. Although his mental faculties remained unimpaired, he did not again appear before the public. He would have been glad to resign his office, but it was not convenient that a vacancy should be made in the Cabinet, and "the King claimed a continuation of his services while he was so well able to perform them." Every possible indulgence was shown him. Cabinets were often held at his house; and draughts of deliberation were sent to him into the country, where he now for the most part resided.

His private friendships continued to be cherished with unabated ardour. Thus, a few weeks before his death,  
Dec. 7, 1793. he addressed the Duke of Grafton:—

"I am more restored than I ever expected to be, and, if I can combat this winter, perhaps may recover so much strength as to pass the remainder of my days with cheerfulness: but I do not believe it possible ever for me to return to business, and I think your Grace will never see me again at the head of the Council Board. It is high time for me to become a private man and retire. But, whatever may be my future condition, whether in or out of office, I shall remain with the same respect and attention,

"Your Grace's most faithful friend," &c.

He then made a short excursion to Bath, to try the benefit  
A.D. 1794. of the waters; but the *stamina* of life were gone, and his spirits were broken by bodily debility. While there, he met his old political antagonist, Welbore Ellis, now Lord Mendip, who, although his senior, had a constitution still unbroken. Meeting in the pump-room, the courtier said to the patriot, "I hope you are well, and in the enjoyment of a happy old age." "Happy!" said Lord Camden, in a fit of temporary despondency, "how can a man be happy who has survived all his passions and all his enjoyments?" "Oh, my dear Lord," was the reply, "do not talk so: while God is pleased to enable me to read my Homer in my ordinary hours,

\* It is said that Lord Camden had prepared the draught of Mr. Fox's Libel Bill many years before, but kept it back till he saw there was a chance of carrying it.—*Europ. Mag* Aug. 1794, p. 93.

and my Bible at my better times, I cannot but be thankful and happy."

He saw that he must now only look for happiness in a better world, and to meet his end in the midst of his family and his friends, he soon after removed to his town residence in Hill Street, Berkeley Square. Here he gradually sunk, more through the gentle pressure of time than any particular disorder. He quietly breathed his last on the 13th of April, 1794, in the eighty-first year of his age,—exactly thirteen months after the decease of his great rival, Lord Mansfield, who had attained the more venerable age of eighty-nine.

His remains were deposited in the family vault, in the parish church of Seal, in Kent. A monument has there been erected to his memory, with an epitaph, which, after stating his age, and the various offices he held, thus concludes in language which, though dictated by the piety of an affectionate son, posterity will repeat:—

"Endowed with abilities of the highest order, with learning deep and extensive, with taste discriminating and correct, with talents in society most instructive and agreeable, and with integrity universally acknowledged, he lived beloved by his family and friends, respected and venerated by his country, and died universally regretted by all good men."

Among all the Chancellors whose lives I have written, or who are yet in prospect before me, there is no one whose virtues have been more highly estimated than Lord Camden's. We may conceive how he was regarded in his own age, from the character of him by Horace Walpole, ever anxious, by sarcasms and sneers, to lower even those whom he professed to exalt:—"Mansfield had a bitter antagonist in Pratt, who was steady, warm, sullen, stained with no reproach, and a uniform Whig. Nor should we deem less highly of him because private motives stirred him on to the contest. Alas! how cold would public virtue be if it never glowed but with public heat! So seldom, too, it is that any considerations can bias a man to run counter to the colour of his office, and the interests of his profession, that the world should not be too scrupulous about accepting the service as a merit, but should honour it at least for the sake of the precedent."

A contemporary writer says:—"He was blessed by nature with a clear, persuasive, and satisfactory manner of conveying his ideas. In the midst of politeness and facility, he kept up the true dignity of his important office: in the midst of exemplary patience, (foreign to his natural temper, and therefore the more commendable,) his understanding was always vi

gilant. His memory was prodigious in readiness and comprehension; but, above all, there appeared a kind of benevolent solicitude for the discovery of truth, that won the suitors to a thorough and implicit confidence in him."

I find nothing hinted against him as a judge, except "that he was a little too prolix in the reason of his decrees, by taking notice even of inferior circumstances, and viewing the question in every conceivable light." The same objector adds: "This, however, was an error on the right side, and arose from his wish to satisfy the bar, and his own mind, which was, perhaps to a weakness, dissatisfied with its first impressions, however strong." Both as an Equity and Common Law Judge, his authority continues to be held in reverence by the profession.

As a politician, he is to be held up as a bright example of consistency and true patriotism to all future generations of English lawyers, and the high honours which he reached should counteract the demoralizing effect of the success which has too often attended tergiversation and profligacy,—when these calculations are aided by the recollection that such success, however brilliant, will neither secure permanent admiration nor real happiness.

Lord Camden's eloquence is not free from tinsel—but still it is characterised by sterling vigour of thought, richness of imagery, and felicity of diction. Like most great English lawyers, and unlike most great French and Scotch lawyers, he never aimed at literary distinction. His only known printed production was "An Inquiry into the Process of Latitat in Wales." But he had a great taste for reading, which did not confine itself to legal and antiquarian lore. It is said that throughout life he was a devourer of romances, including the interminable tomes of Scuderi,—and that the "Grand Cyrus" and "Philidaspes" furnished him many an evening's repast, for which his appetite was sharpened by the juridical labours which had occupied the morning. Late in life he learned Spanish, to read the romances in that language; having exhausted those written in English, French, and Italian.<sup>1</sup> Although he never pretended to be a poet, he would sometimes goodnaturedly pen *vers de société*. Giving a party on Twelfth Night to a number of young persons, he required that all the company in turn must produce four lines on the character they should respectively draw. He himself drew

<sup>1</sup> Almon's Anecdotes, vol. i. p. 384.

<sup>1</sup> Pursuits of Literature, p. 61.



a young barrister in wig and gown, and thus addressed him :—

"Lawyer, attend to me, and I'll unfold  
How brass and silver shall make sterling gold ;  
My nostrum shall all alchemy surpass,  
If your tongue's silver, and your forehead brass."

In his youth, he followed the example of Lord Chancellor North in devoting himself, as a relaxation from study, to music, in which he seems to have made great proficiency, for, his friend Davies planning an opera to be set to music by Handel, we find him offering to assist with his advice respecting the genius of musical verse, the length of the performance, the numbers and talent of the singers, and the position of the choruses—in the language of an accomplished adept in the science of harmony.

He was not a member (I should have been glad to record that he was) of "*the Literary Club*," and he never seems to have been intimate with Johnson or Goldsmith, or any of the distinguished authors of his day. "Goldsmith, in his diverting simplicity, complained one day, in a mixed company, of Lord Camden. '*I met him,*' said he, '*at Lord Clare's house in the country, and he took no more notice of me than if I had been an ordinary man.*' The company having laughed heartily, Johnson stood forth in defence of his friend. '*Nay, gentlemen,*' said he, '*Dr. Goldsmith is in the right. A nobleman ought to have made up to such a man as Goldsmith, and I think it is much against Lord Camden that he neglected him.*'"<sup>k</sup>—However, we learn likewise from the inimitable Boswell, that Lord Camden was on a footing of great familiarity with him "whose death eclipsed the gaiety of nations." "I told him," says this prince of biographers, "that one morning when I went to breakfast with Garrick, who was very vain of his intimacy with Lord Camden, he accosted me thus: '*Pray now did you—did you meet a little lawyer turning the corner, eh?*' '*No, sir,*' said I. '*Pray what do you mean by the question?*' '*Why,*' replied Garrick, with an affected indifference, yet as standing on tip-toe, '*Lord Camden has this moment left me. We have had a long walk together.*'" JOHNSON: '*Well, sir, Garrick talked very properly. Lord Camden was a LITTLE LAWYER to be associating so familiarly with a player.*'"<sup>m</sup> But in another mood Johnson would have highly and deservedly praised the LITTLE LAWYER for relishing the society of a man who was a most agreeable companion, and of high

<sup>k</sup> Boswell's Life of Johnson, iii. 336.

<sup>m</sup> Ibid.

intellectual accomplishments, as well as the greatest actor who ever trod the English stage.

Lord Camden is said to have been somewhat of an epicurean—indisposed towards exertion, bodily or mental, unless when roused to it by the necessity of business, or the excitement of strong feeling;—and to have taken considerable pains in supplying his larder and his cellar with all that could best furnish forth an exquisite banquet. It is certain that he was himself always extremely temperate, forming a contrast in this and other particulars with his immediate predecessor on the woolsack,—for his conversation was ever polished and decorous. He seems to have been most amiable in private life, and to have had in a distinguished degree

———"that which should accompany old age—  
Honour, love, obedience, *troops of friends*."

With many political opponents, he was without a personal enemy.

Lord Camden was in stature below the middle size, but well proportioned and active. We have several exquisite portraits of him. That painted for the City of London, by Reynolds, is one of the finest specimens of the English school. Judging from these, his physiognomy, without marked features or deep lines, was more expressive of gentleness of disposition and frank good-humour than of profound thoughtfulness or stern resolution.

With the exception of an occasional slight fit of the gout, he enjoyed uninterrupted health. He had never had the smallpox, and it is related of him, as a weakness, that he was always much afraid of taking that disorder—his terrors being greatly aggravated when his friend Lord Waldegrave died of it at the age of fifty."

He left a son, John Jeffreys, who, in 1812, was created Marquess Camden and Earl of Brecknock, and who was not only distinguished for his public services, but for the disinterested renunciation of the legal profits of his tellership beyond a very limited amount, to the great benefit of the public revenue.

Lord Chancellor Camden is now represented by his grandson, the present Marquess, who, out of respect for his own virtues, and for the memory of his ancestors, has been decorated with the garter which his father wore."

<sup>a</sup> Nich Lit. An. viii. 533.

<sup>o</sup> Grandeur of the Law, 27

## CHAPTER CXLIX.

LIFE OF LORD CHANCELLOR CHARLES YORKE FROM HIS BIRTH TILL HE WAS RETURNED AS A MEMBER OF THE HOUSE OF COMMONS.

WERE it not for the melancholy spectacle which presents itself at the end of the vista, I should start on this new excursion into the field of biography with alacrity and delight. The subject of the present memoir was possessed of the finest talents,—of the most varied accomplishments,—of every virtue in public and in private life;—but when he seemed to have reached the summit of his lofty ambition he committed a fatal error, and the grave closed upon him under circumstances the most afflicting. His end was “doubtful,” and it has cast a shade over the whole of his career, which ought to have appeared so brilliant. The attainment of the Great Seal proved his destruction. “As if there were contagion in the touch, instant disappointment, anguish and death—such was the strange and melancholy fate of Charles Yorke. The allegory of the Eastern monarch devoting one day to supreme felicity, yet finding every hour perversely darkened with chagrin and sorrow,—the fable of the Persian fruit—sweet to the eye, and ashes to the taste,—were only the image and symbol of this great lawyer’s miserable destiny.”<sup>p</sup>

There are some examples in England of a great lawyer having a great lawyer for his son; but in most of these,—as in the case of Sir Nicholas Bacon,—the father had died while the son was very young, leaving him to struggle for a subsistence. Charles Yorke, the second son of the great Lord Hardwicke, was born on the 10th of January, 1723, in a splendid mansion in Great Ormond Street. His father, then Attorney-General, and making a larger income than had ever fallen to the lot of an English barrister, continued near forty years afterwards to fill the highest offices of the law, accumulating immense wealth, and able to make a splendid provision for all the members of his family. Yet Charles,—even under the enervating influence of a sinecure place which was conferred upon him—from a noble

<sup>p</sup> Law Magazine, No. LXI., where will be found an able vindication of his memory from the charge preferred by Junius.

love of honourable distinction, exerted himself as strenuously and perseveringly as if, being the son of a poor Scotch clergyman, who could give him nothing beyond a good education, he had depended entirely on his own exertions for his bread and for his position in the world.

Like Lord Bacon, he was most fortunate in his mother, A.D. 1730—  
1740. who, while his father was absorbed in professional and official duties, watched over his education with great discretion as well as tenderness. She brought up all her children in thrifty habits, and taught them the most valuable of all virtues—the virtue of self-denial. The boys, instead of going to Eton, where they were in danger of learning idleness, extravagance, and contempt of parental rule, were sent to a most excellent private school at Hackney, kept by the Rev. Dr. Newcombe, a sound classical scholar, and a strict disciplinarian. Here Charles remained from childhood till he was seventeen; and here he must have acquired the taste for literature, and the steady habit of application, for which he was afterwards remarkable. He was then removed to Ben'et (now Corpus Christi) College, Cambridge, where his elder brother had been an under-graduate two years; and he was placed, like him, under the tuition of the pains-taking Dr. Birch. Little aided by academical rules, he now devoted himself to study with enthusiasm, and he soon gave extraordinary proofs of his progress.

I doubt not that, upon the whole, Cambridge, as a place of education, has derived benefit from the mathematical and the classical tripos since established, and the other distinctions at present held out to rouse emulation and to encourage industry; but a spontaneous, genuine, ardent love of knowledge, which sometimes springs up in those happily born, and is fostered by the mutual converse of kindred minds, perhaps formerly led to a higher degree of mental cultivation and really valuable attainment. While Charles Yorke was an undergraduate, there was probably a good deal of general idleness among Cantabrigians, and few could have gone through what now would be considered a creditable examination in the Greek measures or the higher mathematics; but I question whether all the present resident members of the University could compose the “Athenian Letters.”

This work, consisting of two quarto volumes, I have lately perused, and I strongly recommend it to all who would, in a most agreeable manner, extend or refresh their acquaintance with the institutions, the literature, the manners, and the

distinguished men of Greece at the most interesting period of her history. To it Charles Yorke was the principal contributor before he had completed his twentieth year, and, considering the knowledge of books and men which his contributions exhibit, I own they seem to me a more wonderful instance of precocity than the early Latin verses of Cowley and Milton, which clever schoolboys can so closely imitate.

The undertaking was commenced under the auspices of Dr. Birch, as an exercise to his pupils, for the purpose of imprinting their reading on their memory, and initiating them in English composition, so miserably neglected at our universities. Cleander, an agent of the King of Persia, is supposed to be resident in Athens during the Peloponnesian war, and to carry on a correspondence, not only with his court, but with his brother living at home,\*and with private friends in Egypt and other provinces of the Persian empire. These letters are stated, in a lively preface written by Charles Yorke, to be translations from a MS. in the library at Fez, in the King of Morocco's dominions, the supposed deposit of vast treasures of Oriental learning.

They were first printed at Cambridge, in the years 1739 and 1740, but were communicated only to a limited number of friends under the strictest injunctions of <sup>A.D. 1740.</sup> secrecy, "from an ingenuous diffidence which forbade the authors, most of them extremely young, to obtrude on the notice of the world what they considered only a preparatory trial of their strength." In 1781 a new edition was published, still only for private circulation—the editor paying a merited compliment to him "of whose talents, virtues, and services, the world was unfortunately deprived when they were most wanted, both by his own profession and by the public." The real authorship of the different letters was now disclosed. "The work was supposed to be genuine, and a translation from an old Arabic version; but when a due interval of time has elapsed the truth may be owned; the illusion vanishes; it is a masquerade which is closed; the fancy dresses and the dominos are returned to the respective wardrobes; the company walk about again in their proper habits, and return to their proper occupations in life."<sup>a</sup>

A copy of this edition having been transmitted by the younger brother of Charles Yorke, created Lord Dover, to the author of the celebrated "Travels of Anacharsis," BAR-

<sup>a</sup> Pref. xv. ed. 1793 There having been some surreptitious editions, this last edition, most splendid and correct, was given to the world by the late Earl of Hardwicke.

THÉLEMI returned an answer, which (after making all due allowance for French politeness) must be considered a high testimony to the merits of our young countryman:—"Si je l'avois connu plutôt, ou je n'aurois commencé le mien, ou j'aurois tâché d'approcher de ce beau modèle. Pourquoi ne l'a-t-on pas communiqué au public? Pourquoi n'est-il pas traduit dans toutes les langues? Je sacrifierois volontiers mes derniers jours au plaisir d'en enrichir notre littérature, si je connoissois mieux les finesses de la langue Anglaise."<sup>r</sup>

I will give, as a specimen, a "private and confidential" letter from "CLEANDER to HYDASPES, first Chamberlain of the King of Persia," upon the contrast between the manners to which he had been accustomed and those he saw in his travels:—

"The first question you would, probably, have me resolve is, what peculiar difference I find in the manners of Greece and Persia; since custom has placed as many marks of distinction in the civil manners of every nation as Providence has displayed in the natural bodies of each individual. I will tell you, then. A Persian would find nothing more surprising than the unbounded freedom of action and conversation which reigns here. The councils of the Great King are impenetrable, we discover nothing of them till they take effect; whilst here every thing is known long before it is put in execution, and canvassed with as much liberty in common conversation as in the assemblies of the people. We approach our mighty monarch with positions of adoration, and address him in language which is used to the Deity. At Athens, the magistrates are distinguished more by being virulently abused than by any mark of authority. Pericles himself is sure to be the object aimed at by every one who writes either scandalous libels to be dispersed about the city, or performances designed for public representation. The actors themselves sometimes appear upon the stage in masks, which are made exactly to resemble the face of the person ridiculed. The Persian magnificence appears most at their entertainments; the Athenian at their solemn festivals. The Asiatic feasts are remarkable for the vast quantities of provisions, the costliness of the preparations, and the sumptuous furniture; the chief recommendation of the Greek one is the elegance and variety of the conversation, which induced an Athenian to make this observation: 'Our entertainments not only please when we give them, but the day after.' The Asiatic taste and grandeur appear in the palaces of their princes and satraps; the Grecian in the temples of their gods and the public

<sup>r</sup> Lord Mansfield's acknowledgment for his copy is touching:—"Give me leave to return you my warmest thanks for the *ATHENIAN LETTERS*.

—"Veteres revocamus amores,  
Atque olim amissas flemus amicitias."

<sup>s</sup> This reminds me of a moral sentiment have heard given as a toast in Scotland: "May Evening's diversions bear Morning's reflections!"

buildings. Not a nobleman in Persia but shows his rank by the richness of his dress and the number of his attendants; whereas here you cannot distinguish a citizen from a slave by his habit; and the wealthiest Athenian, the most considerable person in the city, is not ashamed to go to market himself. In Persia the eyes of all are turned towards the Sovereign, and they regulate their conduct by his: in the free republics of Greece, the people are king, and resemble other monarchs in their bad qualities more than in their good ones; for they are fickle and imperious, severe and obstinate."

In these letters Charles Yorke gives a lively representation of the different views that may be taken of Spartan manners. Thus he praises:—

"The Spartans banished Ctesiphon for saying he could talk a whole day upon any question. A rhetorician told one of their kings that eloquence was the most excellent gift to mankind; he answered,—'You do well to say so, because when you are commanded silence you are useless.' . . . I observed when I conducted the ambassador of Lacedæmon to the royal chamber, agreeably to the usual ceremony, he dropped a ring which he wore upon his finger, and in stooping to recover it made an awkward reverence to our monarch. Podarchus stood as a candidate a few months since to supply a vacancy in the chosen troop of the 300, and, upon finding he was not chosen, he went out from the presence of the Ephori with much seeming gaiety, and in a fit of laughter. They called him back, and inquired the reason of it. He answered,—'he could not help congratulating the state in silence on being possessed of 300 braver and better citizens than himself.' At the last Olympic games, another Spartan being asked whether his victory there would be of any service to him, he replied,—'Yes, for it would recommend him to a station before the King in battle.' The statues of the gods are all in armour, to intimate that the people place their confidence in military force. Their sacrifices are made with uncommon frugality, because they imagine the Deity is more moved by the sincerity than the incense of the worshipper. The only prayer they offer up at the altar is, that they may receive good things for their good actions. All mourning ceases in eleven days. No one is allowed an inscription on his monument except he dies in the field. They set so much a higher value on a victory gained by stratagem than by force, that in the former case they sacrifice an ox to Mars, and in the latter no more than a dunhill cock."

But thus their great lawgiver is censured in describing the results of his institutions:—

"The Spartans are a proud and severe people. Let them thank Lycurgus who has made them so. Unlike the rest of the admired sages who have given salutary laws to the world, instead of enlarging the minds of an ignorant race he has more effectually contracted them. Instead of teaching them a little condescension to others, they have learned only to set a value upon themselves. Instead of polishing

them into an ease and benevolence of temper, he has reformed them out of it, and, for the sake of avoiding the refinement of luxury, he has introduced a neglect of that humanity in the lesser offices of life, which adds such a relish to the enjoyment of it."

In the letters there are frequent allusions to contemporaneous English politics. Thus Charles Yorke, in  
A.D. 1742. another letter from Cleander to Hippias, on "Ostracism," evidently points at the resolution then generally entertained to drive Sir Robert Walpole from the helm:—

"No mischiefs are to be wondered at in that state where a man's merit, instead of gaining him the love of his citizens, recommends him to nothing but disgrace. Good Heavens! can there be a surer sign of universal frenzy in a commonwealth than the punishing of great virtues with a severity only due to the basest vices, and rewarding high services and the noblest achievements with such black unthankfulness?"

But we must follow the youthful author in his academical career. Avoiding Jacobite roisterers and the fellows of 'Trinity—"such a parcel of stupid drunken sots that the like was not in the whole kingdom,"—not very regular at lecture, and sometimes missing chapel,—but rising in summer with the sun, and in winter lighting his own fire long before day; following with intense ardour the course of study which he preferred; taking no relaxation but a walk with a brother Athenian, in which they planned a despatch to or from Babylon,—he spent his time most pleasantly and most profitably on the banks of the Granta. In 1742, he took his degree of M.A. as a nobleman, and left the university without his merits being fully known, for he was only talked of as having agreeable manners, although "one of a set who were great *saps* and rather *exclusive*."

He now seriously began the study of the law. His father, on account of the sprightliness he had displayed even in his nurse's arms, having from his infancy destined him for the bar, had entered him of the Middle Temple while yet in his 14th year.<sup>a</sup> Thence he had been transferred to the "Honourable Society of Lincoln's Inn," of which he became a distinguished ornament.<sup>v</sup> He had contrived to keep some

<sup>a</sup> Language of Dr. Bentley, the Master of that College.

<sup>u</sup> "The Honble Charles Yorke, Esq<sup>re</sup>, 2nd son of the Right Honble Philip Lord Hardwicke, Baron of Hardwicke, in the county of Gloucester, Lord High Chancellor of Great Britain, was specially admitted into the So-

ciety of the Middle Temple the 1<sup>st</sup> day of December, 1735."

<sup>v</sup> "Lincoln's Inn.—The Honourable Charles Yorke, Esquire, second son of the Right Honble Philip Lord Hardwicke, Baron of Hardwicke in the county of Gloucester, Lord High Chancellor of Great Britain, is admitted into the Soci-



terms there while he was still an under-graduate. To free him from the temptations and distractions of Powis House,<sup>2</sup> where the Chancellor now lived in great splendour, our student had a set of chambers assigned to him in Stone Buildings, Lincoln's Inn, from which he was not to migrate to the paternal mansion except on "high days and holidays," by special invitation.<sup>7</sup> He had not the advantage of sitting at a desk in an attorney's office; but he had often breathed a legal atmosphere, from which he had unconsciously imbibed many legal notions;—and the Chancellor, observing his acuteness and aptitude for instruction on all subjects, took pleasure in expounding to him the elements of jurisprudence, and making him comprehend the bearings of any constitutional question which agitated the public mind.

Thus instructed, he made a rapid progress; and, by attending the Courts in the morning, and devoting himself to Littleton and Plowden in the evening, he laid the foundation of his professional eminence. Although he never was considered a deep black-letter lawyer, he acquired the faculty of knowing where all the learning on any point that might arise was to be found, and he could prepare himself successfully to enter the lists against men who ignorantly rejoiced to think that science

ety of this Inn the 23rd day of October, in the sixteenth year of the reign of our Sovereign Lord George the Second, by the grace of God of Great Britain, France, and Ireland, King, Defender of the Faith, &c., and in the year of our Lord 1742."

\* On the south side of Grosvenor Square.

3 Occasionally he wrote to his father, but in language so cold, stiff, and formal, that we should be shocked by it, if we did not bear in mind the conventional modes by which respect was still usually testified by children to parents. I give one specimen:—

"Lincoln's Inn, Jan. 25, 1742-3.

"My Lord,

"On taking possession of my chambers last night, several thoughts came into my mind, some of which have so near a relation to your lordship that I would flatter myself it may not misbecome me to open them. And the first which naturally arose in it, were my most grateful acknowledgments for the time your goodness allowed me to continue in the University, before you called me to the study of the Law; in which tho' I have not made the improvements I could wish, yet I hope that little attention I have given to letters may be of lasting use to me, by inspiring me

with a principle of rational ambition, and furnishing me with means to attain the proper objects of it.

"Your great example in that scene of life which I am preparing to enter, suggests many things to me, which it is fitter for me to weigh than to explain: only thus much I am free to declare, that no advice or destination, not even your lordship's, could have induced me to think of the Bar, if I had not previously determined to exert my utmost diligence in the *studious*, and all the courage and abilities I am master of in the *active* part of the profession. This is what I have sometimes been desirous of saying, but as the subject is to me very interesting, I have rather chosen to entrust it to paper, which will be more unmoved than myself in the delivery of it. I need not desire your Lordship, who is so used to distinguish the expressions of men from their intentions, to lay no weight on mine, till a few years shall prove them to be the genuine dictates of my heart. I am with the truest respect and affection,

"Your Lordship's most obliged and dutiful Son,

"CHA<sup>s</sup>. YORKE."

had never taught them to stray beyond the precincts of Westminster Hall. Even now he did not abandon his literary tastes; and, by avoiding frivolous amusements, and attending strictly to the improvement of small sections of time wasted by most others, he could, without detriment to his professional progress, keep an assignation with an eminent tragic actor or painter, and carry on a clandestine correspondence with a critic or a poet. These were his dissipations.

He had formed a great intimacy with the author of the "Divine Legation of Moses," and this tyrant of the literary world was to him condescending, bland, and courteous. There is happily preserved to us C. Yorke's very interesting answer to a letter of Warburton, accompanying a presentation copy of the first volume of a new edition of his great work;—

"July 1, 1742.

"Dear Sir,

"I was pleased, on returning home the other day after an excursion of a few weeks, to find your first volume waiting for me, with a most agreeable letter from yourself, full of kindness and vivacity. To speak the truth, I had been meditating before I received yours to say something to you on the very piece you allude to; but you have prevented me in it;—I thought only of congratulating you, but you seem to require condolence.—And surely without reason. What signifies it that your adversaries are not worth contending with? It is a proof that men of sense are all on your side.—Like the spectres whom *Æneas* encountered, you cannot hurt them by any weapons; but it should be remembered, on the other hand, they do not injure but tease, and will follow you the less the more you endure and despise them. You should forgive them too, for you began hostilities. The only provision in the constitution of things for the *dull* is the *indolence* of the ingenious. Therefore, when a man unites great application to great parts, throws down the fences of prejudice, and strikes out new paths in knowledge, they confederate against him as a destroyer of their merit, and a dangerous invader of their property.

"After all, it is a serious and melancholy truth, that when speculative errors are to be reformed, and received opinions either rationally opposed or defended, the matter cannot be attempted without much censure. The discreet upbraid you with imprudence, the prejudiced with absurdity, and the dull with affectation. It is a censure, however, which generally arises from interest; for the works of such as you contribute to bury many useless volumes in oblivion.

"I rejoice that you approve of the further remarks I sent you on a few passages in Tunstall's *Epistle*; not only on account of your candour in doing it, but because your sagacity has confirmed what I had thrown out, by two or three very eloquent turns of argument. Whenever you treat a subject, you leave nothing to be said after you, and for that

reason can always improve upon others. But this is a trifle. The new edition of your book shows that you can even improve upon yourself. Tully, I think, says of his behaviour in the office of friendship—*‘cæteris satisfacio quam maximè, mihi ipsi nunquam satisfacio.’* And in writing, it is one mark of superior understanding not to be contented with its own produce.

“Your correspondence is exceedingly acceptable to me. When I am conversing with you on subjects of literature or ingenuity, I forget that I have any remote interest in what is going forward in the world, nor desire in any time of life to be an actor in parties, or as it is called somewhere, *‘subire tempestates reipublicæ.’* But when I find every body inquiring to-day concerning the report of the secret committee yesterday,<sup>2</sup> this passion for still life vanishes; *agilis fio et mensor civilibus undis.*

“I am, dear Sir, with the greatest affection and esteem,

“Your most obliged

“and faithful Servant,

“CHARLES YORKE.”<sup>a</sup>

This seems to me to be a very wonderful production, considering that the writer was only nineteen years of age. He appears thoroughly to have understood the foibles as well as the merits of his correspondent; and the advice he gives him is remarkable, not only for its boldness, but the felicity of expression in which it is conveyed. We must likewise admire the eagerness with which, notwithstanding his literary enthusiasm, he was ready to plunge into the waves of party strife.

Yet he had occasional struggles between his love of a life of contemplation and a life of action. In a subsequent letter to Warburton, he says,—

“The din of politics is so strong every where, that I fancy it must have penetrated into your retirement. It tempts me sometimes, in an indolent fit, to apply Lord Bacon’s words to myself,—that ‘I discover in me more of that disposition which qualifies to hold a book than to play a part.’ Yet, if you come to London this spring, you will find me engaged in what properly concerns me; but your company, whether enjoyed by letter or personally, will always draw me back to my old studies—*frustra leges et omnia jura tuentem.*”

His letters in this correspondence contain not only examples of bold criticism, but of daring speculation on theological subjects, consistent always with a belief in the great truths of revealed religion, but using considerable freedoms in pro-

<sup>2</sup> This refers to the Report of the Secret Committee on the conduct of Sir Robert Walpole,—in which it was thought that Lord

Chancellor Hardwicke might be implicated.—*12 Parl. Hist.* 788.

<sup>a</sup> Warburton’s Letters, 495.

posing an allegorical interpretation of Scripture.<sup>b</sup> From his marvellous proficiency,—from the ripeness of his judgment, as well as the extent of his reading, and the variety of his attainments,—we must greatly doubt whether there has been any improvement in the system of education for the bar and for public life since his time. Had his training been a century later, he would still have been plodding for his degree without having begun the study of the law,—and he would have known nothing beyond what is to be learned in the narrow bounds of the modern University curriculum; whereas we behold him in reality, not only a sound scholar, but a fine writer, and qualified to enter into competition for fortune and fame with the most distinguished lawyers and statesmen.

His rising merit was described by a veteran politician, and exquisite judge of character, now living in retirement,—who thus addressed him:—

“Houghton, 24th June, 1743.”

“Dear Charles,

“This place affords no news, no subject of amusement and entertainment to fine men. Persons of wit and pleasure about town understand not the language, nor taste the charms, of the inanimate world. My flatterers here are all mutes. The oaks, the beeches, and chestnuts seem to contend which shall best please the lord of the manor. They cannot deceive, they cannot lie. I, in return, with sincerity admire them, and have as many beauties about me as take up my hours of dangling, and no disgrace attends me because I am sixty-seven years of age. Within doors we come a little nearer to real life, and admire, on the almost speaking canvas, all the airs and graces which the proudest of the ladies can boast. With these I am satisfied, as they gratify me with all I wish, and all I want, and expect nothing in return which I cannot give. If these, dear Charles, are any temptations, I heartily wish you to come and partake of them. Shifting the scene has sometimes its recommendations, and from country fare you may possibly return with a better appetite to the more delicate entertainment of a court life.

“Dear Charles, yours most affectionately,

“ORFORD.”

Charles Yorke was called to the bar by the Honourable Society of Lincoln's Inn, in Hilary Term, 1743.<sup>d</sup> Though

<sup>b</sup> See “Selections from Warburton's Literary Remains.”

<sup>c</sup> Hardwicke MSS.

<sup>d</sup> “At a Council held the 1<sup>st</sup> day of February, 1745.—Ordered, That the Hon<sup>ble</sup> Charles Yorke, Esq<sup>re</sup>, one of the Fellows of this Society, being of full standing, having performed

all his exercises, and observed the rules of this Society, be called to the Bar this Term, first paying all his arrears and duties to this Society.”

The following entries respecting him are likewise found in the books of the Society:—

still in his minority,\*—he almost immediately got into considerable practice. It was a great advantage to him, no doubt, to be the son of the Lord Chancellor; but, as has been proved by frequent instances, this would have availed him nothing without the power of self-denial, the talents, and the energy which he displayed.

According to the usage then universally followed, he must have gone some circuit; but I cannot discover which he selected, or how he fared in the provinces. During term time, in London, he was so overwhelmed with briefs, that he was obliged to abandon the society and the correspondence of his friends. Hilary Term, 1744, approaching, thus he writes to Warburton: "As business is com-  
A.D. 1744.  
ing in apace, I know not when I shall have an opportunity of conversing with you at large upon paper, unless I busy the present in a manner to me the most entertaining in the world."

As might be expected, it was chiefly in the Court of Chancery that the solicitors were disposed to employ him—not always from the purest motives. However, he never assumed any airs from his near relationship to the Judge, nor was there ever, as far as I can trace, any well-grounded complaint of his receiving undue favour there. His father was proud of him, and had been particularly delighted with his Athenian Letters; perhaps thinking truly how much better "Cleander" wrote than "Philip Homebred;" but allowed him fairly to fight his own way at the bar, neither taking any indirect means to push him forward, nor, when he heard him argue at the bar, treating him in any respect differently from other counsel.<sup>f</sup>

As yet, the fame of our aspirant was confined to the precincts of Westminster Hall and Lincoln's Inn; for then,

"At a Council held the 8th day of May, 1754,—Ordered, That the Honble Cha<sup>s</sup> Yorke, Esq<sup>r</sup>, one of his Majesties Council learned in the law, be invited to the Bench of this Society; and Mr. White and Mr. Hammet, two of the Masters of the Bench, be desired to attend with this order, and report his answer to the next Council; and if the said Mr. Yorke do accept of this invitation, he is, according to the rules of this Society, to pay all his arrears and duties to the Treasurer of this Society before he be called to the Bench."

"At a Council held the 28th day of November, 1755,—Ordered, That the Honble Charles Yorke, Esq<sup>r</sup>, be Treasurer for the year on-

suing."

"At a Council there held the 29th day of November, 1756,—Ordered, That the Honble Charles Yorke, Esq<sup>r</sup>, Sol<sup>r</sup> Gen<sup>l</sup>, be Master of Library for the year ensuing."

\* The same evening he wrote to his brother Joseph,—“I was this day called to the Bar—very unequal to the task, and against my own opinion. However, I determined to submit, and there is an end.”

<sup>f</sup> Yet it appears that Lord Camden suspected that Lord Hardwicke withheld silk gowns for the advantage of his son Charles, and slighted the young gentleman's competitors.—Aute, vol. vi. p. 360.

unless there were a state trial, no notice was taken of any judicial proceedings in any journal or periodical publication; but, while in his twenty-second year, he suddenly burst upon the public as a bright legal luminary. At this early age, he published the best juridical treatise that had appeared in the English language.

The spirit of Jacobitism had become very strong; there were general discontents in the public mind, and an invasion from France, to assist the Pretender, was daily expected. Lord Hardwicke, the Chancellor, thought it was necessary to render the laws against treason more stringent, by making it treason to correspond with the sons of the Pretender, and by continuing forfeiture and corruption of blood in cases of treason; so that all the honours and all the property of any one convicted of treason should for ever be lost to his children and his family. Against this last enactment there was a strong feeling, which the Chancellor's precocious son undertook to combat;—not from an ungenerous nature, but from a desire to stand by his father, whose opinions he was bound to reverence. Accordingly, during the fervour of men's minds upon the subject, he brought out anonymously, but allowing himself to be soon discovered as the author, "Some Considerations on the Laws of Forfeiture for High Treason."

Of all the departments of literature, jurisprudence is the one in which the English had least excelled. Their treatises of highest authority were a mere jumble—without regard to arrangement or diction. Now, for the first time, appeared among us a writer who rivalled the best productions of the French and German jurists. He was not only an admirer, but a correspondent, of Montesquieu; and he had caught a great share of the President's precision, and of his animation. In this treatise, he logically lays down his positions, and enforces them in a train of close reasoning,—without pedantic divisions, observing lucid order,—and drawing from the history and legislation of other countries the most apposite illustrations of his arguments. The following may be considered a fair specimen of the work; although, without a perusal of the whole of it, an adequate idea cannot be entertained of the excellence of the plan on which he proceeds, or of the felicity with which that plan is executed:—

"It is not the purpose of this essay to attempt a justification of any instance in which the law of forfeiture may, in some countries, have been carried to an extremity, as little to be reconciled with principles of

policy as of clemency or justice. Amongst the Persians and Macedonians, not only the criminals convicted of treason were put to death, but all their relations and friends. The descendants of Antiphon, the orator, were disqualified from advancing themselves, by their own merit, to estates and offices in Athens. The posterity of Marius's faction were excluded by a law of Sylla from the same privileges. When these are laid out of the case, what is the force of the answer? It clearly resolves into this,—that those rights, and the power of transmitting property, which are derived from the favour of society, may not be bestowed upon such terms as shall bind the possessor to his duty, and for the breach be subjected to forfeiture. As to the corruption of blood, it may suffice to say thus much of it here: that if a man is not capable of transmitting property acquired by himself to an heir, it seems a necessary consequence in reason, which is the ground of law, that he shall not be capable of receiving from an ancestor either to enjoy or to transmit; for, however society may effectuate any man's compassionate intention who would make a gift to the traitor's posterity, yet the law, which is consistent upon every occasion, and only to be moved by considerations that affect the whole, will not make an effort of itself to supply that connecting link in the chain of descent which has been struck out of it for the traitor's infamy and the public benefit. Thus society, by making the loss of those rights it confers upon every man a penalty for the greatest crime which can be committed against his country, interests every relation and dependant in keeping him firm to the general tranquillity and welfare; at the same time, it gives him an occasion of reflecting that when he sets about it he must break through every private as well as public tie, which enhances his crime, whilst it is an aggravation of his punishment. Nay, more, he may hope to escape from the justice of his country with his own life if that alone were to be forfeited; but the distress of his family will pursue him in his securest thoughts, and abate the ardour of revolution. Many instances there are of men not ashamed to commit base and selfish enormities, who have retained a tenderness for their posterity by the strong and generous instinct of nature. The story of Licinius Macer, who was father to the great orator, is very remarkable, as related by a Roman annalist. Having gone through the office of Prætor, and governed a province, he was accused upon returning home of extortion and abuses of his power. The very morning of his trial he strangled himself, after having sent word to Cicero, who was preparing to plead against him, that being determined to put an end to his life before sentence, the prosecution could not go on, and his property would be saved to the benefit of his son. Upon the whole, then, where is the wrong? It is agreeable to justice to bestow rights upon condition. It is the wisdom of governments to lay hold on human partialities."—He tries to soften the law's harshness, with which, notwithstanding his assumed boldness, he is evidently a little shocked, by observing how rarely it would be brought into practice; that it would be "like Goliath's sword in the Temple, not to be taken down but on occasions of high necessity—at other times, *in tabulis tanquam in vaginâ reconditum.*"

At the present day, while all must be charmed with his learning, his ingenuity, and his eloquence, I do not think that his reasoning will carry general conviction. He greatly exaggerates the moral guilt of the treason against which the law was to be directed—that of trying, from mistaken principle, to restore the exiled royal family,—which he confounds with the treason inveighed against by the Roman writers—that of conspiring to subvert public liberty for individual aggrandisement;—he utterly fails in his attempt to prove that the children are not punished for their father's crime, by being made infamous and cast destitute on the world;—and though a regard for the public tranquillity may require that a man shall try to bring about a revolution, whatever may be the established government, at the risk of his own life, no reasoning can persuade us that it is just or politic to involve his posterity in his ruin.<sup>s</sup>

However, Charles Yorke's performance was rapturously applauded; his father, in defending the bill in the House of Lords, made an excellent speech, all the topics of which were known to be taken from it,<sup>h</sup>—and the solicitors had no longer any scruple in giving briefs to the Chancellor's son, who had shown such acquaintance with his profession, as well as such general ability. He was now in full practice at the bar, and considered likely to outstrip his father in rapid promotion; but in such matters there is much of chance and accident, and, Sir Dudley Ryder remaining Attorney-General, and Murray Solicitor, years rolled on without a vacancy.

Meanwhile he was nearly snatched away by a violent illness, from which his recovery was almost miraculous. Giving an account of his health to his brother, the Colonel, who was then serving abroad, he says,—“It pleased the providence of God to turn the crisis of my disorder in such a manner as to preserve my life; yet, if I am not mistaken, should it ever be my lot to die of a fever, I have nothing more to feel than what I did, except it be the stroke and instant of death itself.”<sup>i</sup>

<sup>s</sup> See 17 Geo. 2, c. 39.

<sup>h</sup> At first it was attributed to Warburton, Sberlock, and other eminent writers. The author thus cautioned Warburton: “I continue absolutely convinced of the importance of secrecy, and, if any inquiry should be made, that even a false scent should be encouraged.”

But when it was so much applauded, the Chancellor wrote to a friend: “The secret of Charley's book is out, and every body talks of it as his—much to his commendation—as indeed it deserves.”—*Aug.* 1745.

<sup>i</sup> July, 1747.



## CHAPTER CL.

CONTINUATION OF THE LIFE OF LORD CHANCELLOR CHARLES YORKE  
TILL HE WAS APPOINTED SOLICITOR-GENERAL.

CHARLES YORKE commenced his senatorial career in the autumn of 1747, and continued a member of the <sup>A.D. 1747.</sup> House of Commons till within a few hours of his death. He first represented the snug borough of Reigate, which had passed under the grant by King William to his grand-uncle Lord Chancellor Somers, and now belonged to his cousins, the Cockses. He succeeded his elder brother who was elected for the county of Cambridge.

On this occasion there was addressed to him, by Mr. Edwards, the following

## SONNET.

"Charles, whom thy country's voice applauding calls  
To Philip's honourable vacant seat,  
With modest pride the glorious summons wait,  
And rise to fame within St. Stephen's walls,  
Now wear the honours which thy youth befalls  
Thou early claim'd from thy lov'd learn'd retreat;  
To guard those sacred rights which elevate  
Britain's free sons above her neighbour thralls.  
Let Britain, let admiring Europe see  
In those bright parts which erst too long confin'd  
Shone in the circle of thy friends alone,  
How sharp the spur of worthy ancestry  
Whan kindred virtues fan the generous mind  
Of Somers' nephew and of Hardwicke's son." \*

From the scanty accounts handed down to us of parliamentary proceedings in the middle of the eighteenth century, it is very difficult to discover what was his success in debate. Although he sat in parliament twenty-three years—in the "Parliamentary History" his name is only mentioned five times.<sup>m</sup> We know, from contemporary writers, that he was a smart orator, and had a considerable position in the House; but it is pretty clear that he did not support the reputation

\* Cooksey, 163.

<sup>m</sup> 14 Parl. Hist. 267, 325, 1008, 1275; 15 Parl. Hist. 270.

he had acquired at the bar and by his pen; and that he remained at a vast distance behind the "silver-tongued Murray," whom he strove to emulate.

His maiden speech was upon a law bill; and all that we  
 May 7, know of it is from a letter of Dr. Birch to the Hon.  
 1748.

Philip Yorke, containing this statement as part of the news of the day: "Your brother Charles opened his mouth on Monday, in the House of Commons, with some success, upon the Bill for the Relief of Protestant Purchasers' Trustees, &c. of Papists' Effects; against which he urged such a weight of objections, that the patrons of it, Lord Gage and Mr. Fazakerley, abandoned it without any reply; and the committing of it was postponed."<sup>a</sup>

At the meeting of parliament in November, 1748, he was selected to second the address moved by Lord Barrington,—the following short sentence being the whole record of his performance: "The Honourable Charles Yorke, second son of Lord Chancellor Hardwicke, rose and seconded, in a very able speech, the motion of the noble Lord."<sup>o</sup> However, in a letter from Mr. Etough to Dr. Birch, preserved in the British Museum, we have this testimony in its favour: "The figure Charles Yorke made the first day of the session is an agreeable piece of news. Nothing can be more pleasing than such accounts of young men, who have the additional character of probity and virtue."<sup>p</sup>

In 1751, he took a leading part in defending the Regency  
 A.D. 1751. Bill, introduced on the death of Frederick Prince of Wales, whereby the Princess Dowager was to be appointed Regent during the minority of her son, afterwards George III.; but (to gratify the King's dislike of her, and his partiality for his younger son) she was to be under the control of a council of Regency, with the Duke of Cumberland at the head of it. In answer to a speech of Mr. Prowse, violently attacking the measure as unconstitutional, thus spoke Charles Yorke:—

"Sir, as the bill now under consideration is designed to be, and certainly will be, a precedent for all future ages, I hope that honourable members, who speak for it, or against it, will leave the person thereby to be appointed Regent entirely out of the question. If the present conjuncture were only to be considered, I believe that, looking to the character and disposition of the amiable Princess named, no gentleman

<sup>a</sup> Hardwicke Papers; 14 Parl. Hist. 266.

<sup>o</sup> 14 Parl. Hist. 325.

<sup>p</sup> MSS. 4326 B

would think of laying her under any restraints or regulations: no one would hesitate a moment in agreeing to invest her, not only with sovereign, but with absolute sway; because it would only be extending the power to do good. But when we are framing institutions for the government of society, we must not consider persons, but things. For this reason our ancestors have chosen, and have handed down to us, a limited rather than an absolute monarchy. They knew, as well as we, that a wise, active, and just king might be trusted with absolute power; that the more absolute he was, the better it would be for society; but they considered how difficult, if not impossible, it was to refuse to a bad king the authority that had been given to a good one. For the same reason a regency during the minority or incapacity of a king has always, by our constitution, been laid under still greater restraints and limitations. I care not for the theory of the constitution, so much dwelt upon by the honourable gentleman who spoke last. From histories, records, and precedents alone can we know what the constitution really is in practice, and I defy any one to show that a regent or protector has ever been intrusted with a full and absolute sovereign power—I mean, as full and absolute a power as our kings have usually been intrusted with. The Duke of Gloucester, indeed, on the death of Edward IV., usurped a sole regency with absolute power; but no man will contend that his power was legal or constitutional; and the use he made of it can never, I am sure, be any encouragement for the Parliament to follow that precedent. Even the good Earl of Pembroke, in the minority of Henry III., when appointed Regent, was restrained from making grants under the Great Seal; and his successful government was owing to his own wisdom, not the unlimited power conferred upon him. The honourable gentleman admits, that when the King's person or his right to the Crown may be in danger, the power of the Regent ought to be restrained by a council of regency. But is it not obvious, that this argument can be least used where it is most wanted? When the Duke of Lancaster was appointed Regent, in the minority of Richard II., was it urged that his ambition might prompt him to murder the infant King, and to usurp the Crown? No, Sir; the argument made use of on that occasion was, that the constitution forbade the appointment of a regent with sovereign power, though, in charity, supposed to be a good regent,—for the same reason that we limit the authority of a supposed good king. So a council of regency was created in the infancy of Henry VI., when the Duke of Bedford was appointed Regent, and in his absence the Duke of Gloucester. If the Lords who appointed another Duke of Gloucester Protector, with sovereign power, in the minority of Edward V., had not been guided more by resentment against the Queen-mother and her relations than the rules of our constitution, the Plantagenet line might still have been upon the throne. There is here no slight intended to the Princess. In the three minorities to which I have referred, the mother of the infant-sovereign was entirely passed over in the appointment of a regent;—and a striking proof is given of his Majesty's sense of the known virtues of the Princess by proposing her as Regent. If she

is to be laid under restraints, this does not proceed from any jealousies we can entertain of her character. These restraints are only such as every wise king would choose to lay upon himself. Would any wise king choose to make peace or war, to prorogue or dissolve parliaments, or to remove any great officer of state, or appoint bishops or judges, without consulting men who have worthily served their country, and who are the most capable of giving good advice to the Crown? As to the council of regency, their power is merely restrictive; they have no active power; they cannot so much as meet except when called by the Regent, and when they do meet they can take nothing under consideration but what her Royal Highness may recommend to them; they can act in nothing; their resolutions will signify nothing without her concurrence; and if they should refuse to consent to any act necessary for the good of the kingdom, they are removable on the joint address of the two Houses of Parliament. This formidable council of regency will, therefore, rather be a security to the Regent than an obstruction to any of her measures; for, though by our state maxim 'the King can do no wrong,' I doubt whether that maxim can be applied to one who is appointed to govern, as Regent, in the King's name; and therefore it may much import the Princess, when Regent, that she should be able to make it appear, by an authentic document, that what she does has been thought by responsible advisers to be the most proper and necessary measure for the public good. I would willingly invest her Royal Highness with the full exercise of all the prerogatives of the Crown, if this course were not absolutely inconsistent with our constitution, and if there were not an apprehension that the precedent, on some future occasion, might be attended with the most fatal consequences. This alone makes me do violence to my own inclination, and compels me to banish from my thoughts the personal qualities of the illustrious lady now to be appointed Regent. If others would consider the Regent as a constitutional abstraction, I am fully persuaded that there would be a general unanimity as to the appointment and powers of the council, and no one would propose a course which would be quite novel in our history, and the remote consequences of which might bring upon the authors of it the curses of posterity."<sup>9</sup>

Horace Walpole, in an account of this debate sent to his correspondent at Florence, says, "Lord Strange and Sir Roger Newdigate both spoke against the bill; and Charles Yorke, a young lawyer of good parts, *but precise and affected*, for it." I must own that there is a good deal of flippancy as well as sophistry in this smart harangue, and that the orator is rather gently handled by the critic. Murray followed in a more statesmanlike strain,—and, upon a division, the "council clause" was carried by a considerable majority.

Soon after, Charles Yorke received his first professional

<sup>9</sup> 14 Parl. Hist. 1008.

\* Letter to Sir H. Mann, May 1751. Hor. Walp. Mem. Geo. I. p. 108.

advancement in being appointed counsel to the East India Company, when he must have felt infinitely more delight than on afterwards receiving the Great Seal.\*

The next occasion on which we can trace him in the House of Commons was the first day of the session of 1753, when he moved the address. We, accus- A.D. 1753. tomed to see some tender scion of nobility brought forward for such a task, are surprised to find it assigned to a practising lawyer who had been several years in parliament. He seems to have been a good deal laughed at for proposing "to acknowledge his Majesty's *wisdom*, as well as goodness, in pursuing measures calculated to preserve the general tranquillity of Europe." The Earl of Egremont moved that the words "*wisdom as well as*" be left out, and other members violently censured the measures which were supposed to show such "*wisdom as well as*" goodness; but the amendment was negatived, and the address carried, without a division.'

In the same session, Charles Yorke restored and extended his reputation by a spirited defence of his father, when attacked for bringing forward the famous "Marriage Act." Henry Fox, its great opponent, having dilated very offensively on "the chicanery and jargon of the lawyers, and the pride of their Mufti," went on to apply to the Chancellor the story of a gentlewoman at Salisbury, who, having a sore leg, sent for a country surgeon, who pronounced that it must be cut off; "the gentlewoman, unwilling to submit to the operation, sent for another more merciful, who said he could save her leg, and that no operation was necessary; the surgeons conferred; the ignorant one said, 'I know it might be saved, but I have given my opinion, my character depends upon it, and we must carry it through;'—so the leg was cut off." Charles Yorke, rising in great anger, thus began: "It is new in parliament—it is new in politics—it is new in ambition."—He then proceeded to draw a lofty character of his father, and, describing in glowing terms the height to which he had raised himself by his merit, concluded by telling Fox how imprudent it was to attack a man so capable of vindicating himself and retaliating upon his accuser. Mr.

\* 28th July, 1751. His brother John, in a letter of this date, says, "Charles has been this morning to visit the Directors—foes and friends. As a specimen of what is to follow,

he is invited to meet them at Pontac's to-morrow to dine upon a turtle."

\* 14 Parl. Hist. 1276.

Fox, in reply, tried to raise a laugh against him, by repeating and playing upon his words, "Is it new in parliament to be conscientious? I hope not. Is it new in politics? I am afraid it is. Is it new in ambition? It certainly is to attack such authority."<sup>u</sup> However, the House sympathised with the pious son, and these gibes were considered in bad taste. When the amended bill came back to be discussed in the Lords, the Chancellor introduced his famous attack upon Fox by a very touching allusion to the manner in which he had been defended elsewhere by one near and dear to him, and in which "the incendiary had been punished."<sup>x</sup>

This quarrel made so deep an impression on the mind of Fox, that though generally a good-natured man,—when he heard at Nice, many years after, of Charles Yorke's death, and the melancholy circumstances which attended it, he thus wrote to a correspondent with an affectation of querulousness, but with real malignity:—"I never envied Mr. Yorke whilst he lived, but I must take leave to envy him and every body else when they are dead: I comfort by persuading myself it is happier to wish for death than to dread it, and I believe every one of my age does one or the other. But I do not find myself near a natural death, nor will you see me hanged, though I verily think they will never leave off abusing me." And writing soon after to George Selwyn, who delighted in looking at old friends when laid out for burial, he says, with savage jocularly, "Yorke was very ugly whilst he lived,—how did he look when he was dead?"<sup>y</sup>

The last important speech of Charles Yorke was delivered Feb. 8, in the year 1754, upon the subject of extending the 1754. "Mutiny Act" to the East Indies, when all the old arguments being brought forward about standing armies and martial law, he ably showed the necessity of keeping up a military force in those remote regions, and the impossibility of doing so unless soldiers might be tried by a military tribunal for an infraction of the Articles of War.<sup>z</sup> Although no other fragments of his eloquence are to be found in the regular

<sup>u</sup> Fox was luckier in an encounter with another lawyer in the same debate. He held in his hand a copy of the bill, in which were written in red ink the amendments moved by some members who pretended to be his friends. The Solicitor-General, standing near him while speaking, said, "How bloody it looks!" Fox answered, "Yes; but thou canst

not say I did it:

<sup>y</sup> See what a rent the learned Casca made. Through this the well-beloved Brutus stabb'd."

<sup>x</sup> 15 Parl. Hist. 84; Hor. Walp. Geo. II 299.

<sup>y</sup> Hor. Walp. Lett. iv.

<sup>z</sup> 15 Parl. Hist.

records of the proceedings of Parliament, we know from contemporary memoirs that he continued to speak and to be respectfully listened to, in the House of Commons, on every constitutional question which arose till near the close of his career.

Meanwhile, amidst all the distractions of business, and the anxieties of ambition, he preserved his better tastes, and he was glad to escape from the wrangling of lawyers, and the slang of the House of Commons, to criticism and philosophy. He still kept up a close intercourse, by visits and letters, with Warburton. On one occasion, having been disappointed in the hope of finding him at Prior Park, he thus shows the impression made upon him by this picturesque place, where the "humble Allen" had entertained POPE :—"The natural beauties of wood, water, prospect, hill and vale, wildness and cultivation, make it one of the most delightful spots I ever saw, without adding any thing from art. The elegance and judgment with which art has been employed, and the affectation of false grandeur carefully avoided, make one wonder how it could be so busy there without spoiling any thing received from nature." After controverting an emendation by Warburton of the text of "*Measure for Measure*,"<sup>a</sup> he proceeds to give him some excellent and much-needed advice,—to be less acrimonious in his controversies with brother authors.

"It is to be expected, where any writer has the marks of an original, and thinks for himself, producing *de suo pengu* things wholly new to most understandings, that some will have their difficulties to propose; others their tenets to maintain; and few will give a ready assent to truths which contradict prevailing notions, till time and posterity have wrought a gradual change in the general state of learning and opinions. What wonder, then, that many should write against you? How natural that you should defend! It was expected from you. The zeal for knowledge is commendable: the deference to mankind becomes you. But here lies the mischief. You and your adversaries stand upon unequal ground. They engage with that best friend and second on their side—vulgar prejudice. Let their insinuations be ever so malignant, provided they write *dully* they gain the character of writing *coolly*! How natural that you should expostulate! If your expostulations have been sometimes too warm, they were not the bitter overflowings of an

<sup>a</sup> The Duke, in the character of a friar, says to Claudio, in order to prepare him for death, and dissuade him from a reliance on his sister's intercession with Angelo,—

"Do not *satisfy* your resolution with hopes that are fallible."

The divine proposes to read "falsify;" but the lawyer shows that "satisfy," in the sense of *discharge*, is the true reading.

ill-natured mind, but the unguarded sallies of a generous one. Yet even such sallies are not forgiven you : not because those you answer have deserved better, but because sensible and candid men are disposed to think too well and too highly of you to forgive that in you which they would overlook in others. And therefore, could nobody permit you to reverence yourself as much as I do, you would wait with patience that period when '*Answers*' will be forgotten : unless (according to the epigram of Martial) you choose to give flies a value and an immortality by entombing them in amber. It is to flatter me exceedingly to intimate that I have contributed to lead you into those sentiments, in which the very tedium of controversy, and the pursuit of noble designs, must necessarily confirm you."<sup>b</sup>

Subsequently, when he had acquired high reputation in public life and the most brilliant prospects were before him, thus he addresses the great scholar and divine :—" I endeavour to convince myself it is dangerous to converse with you, for you show me so much more happiness in the quiet pursuits of knowledge and enjoyments of friendship than is to be found in lucre or ambition, that I go back into the world with regret, where few things are to be attained without more agitation, both of reason and the passions, than either moderate parts or a benevolent mind can support."<sup>c</sup>

He proved the sincerity of his friendship for Warburton by obtaining for him the "preachership" of Lincoln's Inn, which was in this instance, and so often has been, the stepping-stone to a bishopric; and by prevailing upon his father, who had ceased to have much respect for literature, to give him a prebendal stall. Thus writes the prebendary-elect to his crony Hurd :—" Last Sunday the Chancellor sent me a message with the offer of a prebend of Gloucester, as a mark of his regard, and wishes it had been better. I desired Mr. Charles Yorke to tell him that no favours from such a hand could be unacceptable. Yorke of his own mere motion told me he intended to write to the Master of the Rolls to recommend you in case of a vacancy. He does not know the force of his interest, but he shall rush it in the warmest manner." Hurd was disappointed at the Rolls, but by the interest of Charles Yorke, who adopted him into his friendship, and prized him more highly than posterity has done, he succeeded Warburton in the preachership of Lincoln's Inn, which in his case likewise led to a mitre. Upon this occasion he wrote to Warburton, saying,—" It will be an election unanimous; but, as little attentions please, I shall endeavour to prevail upon him, when

<sup>b</sup> Warburton's Correspondence 498.

<sup>c</sup> Ib. 505.



I have the pleasure of seeing him, to *mount timber* on Sunday as a compliment to the benchers.”<sup>d</sup> Warburton thereupon warily suggested to Hurd,—“Mr. Yorke may be right in your not being too punctilious about sermons at first. But take care not to accustom them to works of supererogation, for, as puritanical as they are, they have a great hankering after that Popish doctrine.”

Charles Yorke likewise kept up a constant correspondence with the President Montesquieu. Having expressed to him a wish to renounce public life for literary leisure, he received the following answer:—

“Une noble ambition convient aux jeunes gens, le repos à un âge plus avancé ; c’est la consolation de la perte des agrémens et des plaisirs. Ne négligez pas des talens qui vous sont venus avant l’âge, et qui ne doivent point être contraires à votre santé, quoiqu’ils sont votre nature même. Vous vous souvenez des belles choses que dit Cicéron, dans son Livre des Offices, contre les philosophes, et combien il les met au dessous de la vie active des citoyens et de ceux qui gouvernent la république ; et on ne peut pas le soupçonner d’avoir eu de l’envie contre ceux qui s’attachoient à la philosophie ; puis qu’il étoit lui-même un si grand philosophe ; le même, dans un autre endroit, appelle Archimède un petit homme ; et Platon n’alla en Sicile que pour faire voir à l’univers qu’il étoit non seulement capable de donner des loix à une république, mais de la gouverner. Continuez donc une profession que vous faites avec tant de gloire ; continuez une profession qui fait qu’en vous regardant on se souvient toujours de votre illustre père ; continuez une profession qui fait voir que dans un âge très-tendre vous avez pu porter le poids de la réputation sans vous courber.”

The President afterwards sent him a copy of his works, with this polite epistle:—

“Monsieur, mon très-cher et très-illustre Ami,

“J’ai un paquet de mes ouvrages, bons ou mauvais, à vous envoyer ; j’en serai peut-être le porteur ; il pourra arriver que j’aurai le plaisir de vous embrasser tout à mon aise. Je remets à ce tems à vous dire tout ce que je vous écrivois. Mes sentimens pour vous sont gravés dans mon cœur, et dans mon esprit, d’une manière à ne s’effacer jamais. Quand vous verrez Monsieur le Docteur Warburton, je vous prie de lui dire l’idée agréable que je me fais de faire plus ample connoissance avec lui ; d’aller trouver la source du sçavoir, et de voir la lumière de l’esprit. Son ouvrage sur Julien m’a enchanté, quoique je n’ai que de très-mauvais lecteurs Anglois, et que j’ai presque oublié tout ce que j’en sçavois.

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<sup>d</sup> This was in vacation time, and it is the duty of the preacher of Lincoln’s Inn to officiate only during the terms.

Je vous embrasse, Monsieur. Conservez-moy votre amitié ; la mienne est éternelle.

“MONTESQUIEU.

“à Paris, ce 6 Juin, 1753.”

In the autumn of the same year, Charles Yorke left England with the intention of visiting the President at his château in Gascony, and accompanying him to Bordeaux, that he might see how justice was administered in the parliament there ; but he was recalled home before this object could be accomplished. The President thus expressed his disappointment :—“ J’aurois été bien heureux de passer quelque tems avec vous à Labrede ; vous m’aurez appris à raisonner, et moy je vous aurois appris à faire du vin et à planter des chênes, sous lesquels quelque druide se mettra quelque jour ; mais quand je serois aussi jeune que vous, je ne verrois point cela.” He then goes on to talk of their common friend “Monsieur le Docteur Walburthor” —to whom he promises a copy of the *Esprit des Lois*, and a cask of wine, in return for his new edition of Pope.

I ought not to pass over a misfortune which had befallen him, the severity of which I can the better appreciate from having been visited by a similar one myself.\* In the night of the 5th of July, 1752, a fire suddenly burst out from his staircase in Stone Buildings, Lincoln’s Inn. He narrowly escaped with his life, but he suffered an irreparable loss, in which the whole nation participated—the invaluable State Papers in thirty volumes folio, collected by his grand-uncle, Lord Somers, and made over to him, having been all reduced to ashes. Warburton says,—“They were full of very material things for the history of those times, which I speak upon my own knowledge.”† Perhaps posterity had a heavier loss in the destruc-

\* In sending a copy of this letter to Warburton, Yorke observes,—“His heart is as good as his understanding in all he says or writes ; though he mixes now and then a little of the French *clinquant* with all his brightness and solidity of genius, as well as originality of expression.”—*Corresp.* p. 507.

† When I was Attorney-General, my chambers in Paper Buildings, Temple, were burnt to the ground by fire in the night time, and all my law books and MSS., with some valuable official papers, were consumed. Above all, I had to lament a collection of letters written to me by my dear father, in a continued series, from the time of my going to College till his death in 1824. All lamented

this calamity except the claimant of a peerage, some of whose documents (suspected to be forged) he hoped were destroyed ; but, fortunately, they had been removed into safe custody a few days before, and the claim was dropped.

‡ Lord Hardwicke, in a letter written next day, says, “My son Charles was forced to run down stairs in danger of suffocation, with nothing on but his shirt and breeches, and in that condition took shelter in his friend Mr. Clarke’s chambers on the other side of the square. He lost every thing, and came home to me almost as naked as he came into the world. But what affects him most is the loss of his library and all his MSS. and papers.”

tion of Charles Yorke's own MSS.; for although he was too modest to talk much of them, it was generally believed that he had prepared for the press several law treatises, which would have rivalled the fame of the "Considerations on Forfeiture for Treason;" and Cowper's verses, on a like misfortune which befel Lord Mansfield, might have been addressed to him:—

"And Murray sighs o'er Pope and Swift,  
And many a treasure more,  
The well-judg'd purchase and the gift  
That grac'd the letter'd store.

"Their pages mangled, burnt, and torn,  
The loss was his alone;  
But AGES YET TO COME SHALL MOURN  
THE BURNING OF HIS OWN."

He soon got a new set of chambers, and furnished his shelves with new copies of such books as could be obtained from the booksellers; but—even in consulting reports and law treatises—for years there was almost daily something annoyingly reminding him of those he had lost,—which were made valuable to him by notes and scratches, and with every page of which he had formed an endearing familiarity.

For this, or some better reason, he became tired of a bachelor's life, and, being now in his thirty-third year, he resolved to enter the holy state of wedlock. A.D. 1755.

The object of his choice was Catherine, only child and heiress of William Freeman, Esq., of Aspeden, Herts, a granddaughter of Sir Thomas Pope, Bart., of Tittenhanger. To her he was united on the 19th of May, 1755,<sup>b</sup> and with her he lived most happily till, after bringing him three children, she was snatched away to an early grave.

Though still what we in our time should consider quite a youth at the bar, who ought to be pleased with the prospect of gradually getting into a little business, he compared his father's progress with his own, and he was exceedingly dissatisfied to think that he was not yet made a Judge, or a law officer of the Crown. So far back as 1747, he had had a feather put into his

<sup>b</sup> On this occasion, his brother, Colonel Yorke, wrote to their sister Lady Anson,—“I rejoice that Charles is going to be married at last. If I had governed him for some years since, he should have been married sooner and been less in love. I hope his contingencies will not fall in soon, for I shall be sadly disappointed if he does not rise to where I

intend he shall be; and I am afraid, if he is too much at his ease, that his ambition will cease to operate.” He received a letter of felicitation from Mr. Pitt, with this wish,—“May you find matrimony just what I have found it, the source of every comfort and of every joy.”

cap by being made Solicitor-General to the Prince of Wales. But his only other Government preferment hitherto had been the grant of Clerk of the Crown to him jointly with his brother John Yorke, the grasping Chancellor being desirous to keep this good thing in the family as long as possible. Disappointed at not sooner obtaining the real honours of the profession, Charles now talked of leaving it altogether, and taking entirely to the political line, in which he flattered himself he might rise to be Prime Minister. It appears that he had infused his discontented notions into his friends. Warburton writes to Hurd, "Yorke, who has spent the holidays with me, has just now left me to return to the bar, whose nature, virtue, and superior science in any age but this would have conducted their favourite pupil to the bench."<sup>i</sup>

At last an opening appeared to have arisen. On the 25th of May, 1756, died Sir Dudley Ryder, Chief Justice of the King's Bench, the day before he was to have kissed hands on being raised to the peerage, and it was expected that this would make an immediate move in the law. But the assistance of Murray, the Attorney-General, was so essentially necessary to the Duke of Newcastle's government in the House of Commons, that, although he demanded the Chief Justiceship as of right, the office was kept vacant six months, in the hopes of bribing him to forego his claim. In the mean while the Chancellor being supposed to have all the law appointments at his disposal, his son earnestly pressed that now some arrangement might be made whereby he might be promoted. On the 2nd of June, 1756, thus wrote Mr. Potter, the son of the Archbishop, to Mr. Pitt:—

"Charles Yorke, who has long had a wish to quit the profession, has taken advantage of this opportunity, and has sternly insisted with his father, that, unless he makes him Solicitor-General now, he will immediately pull off his gown. The Chancellor yields, and has promised either to make him Solicitor, or to consent that he shall quit the profession and be a Lord of the Admiralty. I think I know which side of the alternative the Chancellor will take. On Murray's leaving the bar, and Charles Yorke becoming Solicitor-General, he would get at least 4000*l.* per annum. The Chancellor will compute how much that exceeds the salary of a Lord of the Admiralty, and the vices of the family will probably operate, so as to keep poor Charles in the only train in which he can be of any consequence."<sup>k</sup>

<sup>i</sup> Warb. Corresp.

<sup>k</sup> Chatham Correspondence, i. 160.

Murray having at length obtained the Chief Justiceship by the threat of withdrawing from public life, the administration was subverted, and Lord Hardwicke resigned the Great Seal. But he contrived that the desired promotion should be bestowed upon his son, who, on the 6th of November, 1756, was sworn in Solicitor-General.<sup>m</sup>

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## CHAPTER CLI.

### CONCLUSION OF THE LIFE OF LORD CHANCELLOR CHARLES YORKE.

THE first public duty cast upon Charles Yorke, after his promotion, was to make a complimentary speech on the elevation of a rival. Murray, the Chief-Justice-elect, <sup>A.D. 1756.</sup> was to take leave of the Society of Lincoln's Inn previous to going through the preliminary form of being made a Serjeant at Law, that he might thereby be qualified to become a Judge. Mr. Solicitor, being then the Treasurer or head of the Inn, according to ancient usage presented the departing member with a purse of gold as a retaining fee, and addressed him in a flowing oration, extolling his eloquence, his learning, and his qualifications for the high judicial office which he was about to fill. The very words of the answer are preserved, from which we may judge of the talent and the courtesy exhibited on both sides:—

“I am too sensible, Sir, of my being undeserving of the praises which you have so elegantly bestowed upon me, to suffer commendations so delicate as yours to insinuate themselves into my mind; but I have pleasure in that kind partiality which is the occasion of them. To deserve such praises is a worthy object of ambition; and from such a tongue, flattery itself is pleasing. If I have had in any measure success in my profession, it is owing to the great man who has presided in our

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<sup>m</sup> The retiring Chancellor represented it as the spontaneous act of the King. Writing to a friend, he says, “Your congratulations on my son's promotion to the office of Solicitor-General are extremely obliging, not only to me, but to him. The King my gracious master, who accepted my resignation with those demonstrations of goodness which

related by me might have the appearance of vanity, was pleased to do it as a mark of his approbation of my long and faithful though unmeriting service. I had made it my firm resolution neither to ask nor accept any pecuniary or lucrative advantage—but of this favour I own I am proud.”

highest Court of judicature the whole time I attended the bar. It was impossible daily to come into his presence without catching some beams from his light. The disciples of Socrates, whom I will take the liberty to call the great lawyer of antiquity, since the first principles of law are derived from his philosophy, owe their reputation to their having been the reporters of the sayings of their master. If we can arrogate nothing to ourselves, we may boast the school we were brought up in; the scholar may glory in his master, and we may challenge past ages to show us his equal. My Lord Bacon had the same extent of thought, and the same strength of language and expression, but his life had a stain. My Lord Clarendon had the same abilities, and the same zeal for the constitution of his country; but the civil war prevented his laying deep the foundations of law, and the avocations of politics interrupted the business of the Chancellor. My Lord Somers came the nearest to his character; but his time was short, and envy and faction sullied the lustre of his glory. It is the peculiar felicity of the great man I am speaking of, to have presided near twenty years, and to have shone with a splendour that has risen superior to faction, and that has subdued envy. I did not intend to have said so much upon this occasion; but with all that hear me, what I say must carry the weight of testimony rather than appear the voice of panegyric. For you, Sir, you have given great pledges to your country, and large are the expectations of the public concerning you. I dare to say you will answer them."

For us Lincoln's Inn men, this was, indeed, a proud day. The greatest of Common Law Judges, on his own inauguration, spoke so eloquently of the greatest of Equity Judges now in retirement, after a judicial career of unequalled length and brilliancy,—and held out seemingly well-founded anticipations that the son who was addressed would rival his father's glory. All three were members of Lincoln's Inn, and the scene was acted in Lincoln's Inn Hall, amidst a crowd of barristers and students, many of whom, if fortune had been propitious to a display of their talents, would have been hardly less distinguished.

In the following year, the Solicitor-General expected further promotion, but was doomed to a severe disappointment. After some months of anarchy which followed the resignation of the Duke of Newcastle and Lord Hardwicke, during which the Great Seal was in commission, and there was a perpetual shifting of the principal offices of state, the Court was obliged to surrender at discretion to Mr. Pitt, who then formed his famous Administration. He bore no good will to the House of Yorke, and, although he would not dismiss Charles from the office held by him, he insisted on making his old school-fellow, Pratt, Attorney-General. This was most

highly distasteful to Mr. Solicitor; but after consulting his father and his friends, he consented to swallow the bitter pill presented to him. Pratt was his senior at the bar, and had now risen into high reputation, so that it was no degradation to serve under him. They acted with apparent cordiality, though it was said that Yorke never forgot the affront, and was actuated by the recollection of it in his intrigue against Lord Camden, when he was himself to have become Chancellor under Charles Townshend, and in the negotiation which closed his own career, when, in an evil hour, he actually received the Great Seal, that Lord Camden might be cashiered.

Opposition being now annihilated, the Attorney and Solicitor-General had very light work in the House of Commons, and their official duty chiefly consisted in advising the Government (which they did most admirably) upon numerous questions of international law, arising during the prosecution of the war.

The first great occasion when they appeared together in public was on the trial of Dr. Hensey, at the King's Bench bar, for high treason, in carrying on a correspondence with the French, and inviting them to invade the realm. It was the part of the Solicitor-General to sum up the evidence for the Crown, but he declined to do so, reserving himself for the general reply on the whole case,—a course which Lord Mansfield and the whole Court held he was entitled to pursue. His reply was distinguished by extreme moderation and mildness of tone, as well as perspicuity and force of reasoning. The prisoner was convicted,—but, on account of extenuating circumstances, he was afterwards pardoned.<sup>a</sup>

The only other state prosecution in which Pratt and Charles Yorke were jointly engaged was that of Lord Ferrers, before the House of Peers, for the murder of his steward, of which I have given an account in the Life of Lord Northampton, who then presided as Lord High Steward.<sup>o</sup> The Solicitor-General's reply on this occasion is one of the finest forensic displays in our language, containing, along with touching eloquence, fine philosophical reasoning on mental disease and moral responsibility.

"In some sense," said he, "every violation of duty proceeds from insanity. All cruelty, all brutality, all revenge, all injustice, is insanity. There were philosophers in ancient times who held this

<sup>a</sup> 19 St. Tr. 1342—1382.

<sup>o</sup> 1b 945; ante. vol. vi. p. 322.

opinion as a strict maxim of their sect; and, my Lords, the opinion is right in philosophy, but dangerous in judicature. It may have a useful and a noble influence to regulate the conduct of men;—to control their impotent passions;—to teach them that virtue is the perfection of reason, as reason itself is the perfection of human nature;—but not to extenuate crimes, nor to excuse those punishments which the law adjudges to be their due.”

Every Peer present said, “Guilty, upon my honour;” and when the unhappy culprit had expiated his offence at Tyburn, homage was done throughout the world to the pure and enlightened administration of criminal justice in England.

About this time Charles Yorke sustained a blow which long rendered tasteless all the applause with which his efforts were crowned. He lost the chosen partner of his fate, whose participation of his good fortune gave it all its value. When a little recovered, he described his anguish, and the sacred source of his consolation, in a letter to his friend Warburton, which has unfortunately perished. We may judge of its tone from the language of Warburton in transmitting it to Hurd:—

“This morning I received the enclosed. It will give you a true idea of Yorke’s inestimable loss, and his excellent frame of mind. He has read, you will see, your Dialogues. And was he accustomed to speak what he does not think (which he is not), at this juncture he would tell his mind, when labouring with grief.

‘Nam veræ voces tum demum pectore ab imo  
Ejiciuntur, et eripitur *Persona*, manet res.’”<sup>p</sup>

Upon the accession of George III. Charles Yorke was continued in his office of Solicitor-General, and, from  
Oct. 25, 1760. feeling rather a dislike to Mr. Pitt, he seems early to have attached himself to Lord Bute. He saw without regret  
Jan. 25, 1762. the resignation of the “Great Commoner;”<sup>q</sup> and when Pratt was “shelved,” as was supposed, in the Court of Common Pleas, the Attorney-Generalship was joyfully con-

<sup>p</sup> Warb. Corr. 292.

<sup>q</sup> Warburton, in a letter to Mr. Pitt, written soon after, tries to remove from his mind the impression made by some of Yorke’s manifestations of satisfaction on this occasion:—

“Prior Park, Oct. 17, 1761.

“The Solicitor-General has just now left this place after a visit to me of a few days. I should be unjust to him on this occasion to omit saying that to me he ever appeared to hold you in the highest honour, and

your measures (as soon as ever the effects appeared) in the highest esteem. I ought in justice to add further, that he deceived me greatly if, at that very time when your just resentments were about breaking out against the Duke of Newcastle, he did not use his best endeavours, both with the Duke and his father, to repair their treatment, and to procure you satisfaction. But he had not then that influence with them which he has had since.”—*Chat. Corresp.* ii. 162



ferred upon the Solicitor, who was expected unscrupulously to go all lengths against Wilkes.

He derived little satisfaction from this elevation. It was soon seen that Lord Bute's Administration could not stand, and he was involved in disagreeable intrigues for the recall of the Duke of Newcastle or Mr. Pitt to office. On one occasion, Lord Lyttleton came to him as the emissary of the Court to tempt him, by an offer of the Great Seal, to influence his father and his family to support the "favourite." In an account which he sent of this interview to his father, he says,—

"I added with respect to the *thing* itself, that if I could suppose the King would ever do me the honour hinted, I should not be afraid to accept it, though I should think it too early and in many respects not eligible at this time. I inquired how Lord Mansfield stood, and whether he might not be thought of? He answered that Lord M. would feel nothing personally as to me, because he would see that it was impossible for him to have the Great Seal *rebus sic stantibus*. Lord Lyttleton said that if such an offer came I could not with honour refuse it; he thought Lord B.'s prudence, with absolute favour, might weather the conjuncture, and that the D. of N. ought to reflect he never could be a minister in *power* as he had been in the late reign; and that it would be, above all, absurd for him to make himself the instrument of Mr. Pitt's power, which would be the consequence of opposition." After enlarging on the difficulties of his situation, and his reluctance to be associated with the Duke of Newcastle, he thus concludes: "If it is a measure to resign, and I am to go *ad latus* of Mr. Pitt, I shall incline strongly to attend the bar no more, which I may *now* quit without loss of honour in the world, and might perhaps attend hereafter, with some profit, but more vexation." Lord Hardwicke wrote in answer,—“There is no great ground at present for any public parliamentary opposition; the unpopularity of the *Scotchman* cannot in form be taken up in parliament till it breaks out and is exemplified in material instances of conduct. From hence you may conclude it is scarce probable that you will be put under the difficulty you apprehend about *resignation*, and this brings me to the only point in which I differ from you. I mean your idea of quitting the bar in case you should think fit to quit your office, which last I do by no means foresee. But if it should so happen, my opinion upon consideration is, that it would be unadvisable in the highest degree for you to leave the bar. It will be giving up the most independent and I think the most advantageous profession in England without any occasion; for you would not find your prospects much lessened by the loss of your office; but you would find your own consideration and importance much diminished by the loss of your profession. My Lord Granville used to say, that the first man at the bar in opposition was equal to the first man upon the bench. I don't carry it so far; but I really think that the first man at the bar

in opposition is, *cæteris paribus*, equal to the first man at the bar in place."

Meanwhile Mr. Pitt tried to gain him over by lures which are described in a letter of Lord Hardwicke:—

"As to Mr. Attorney-General, he said he had the greatest esteem and friendship for him, which had increased as their acquaintance had proceeded, which was of long standing: that he had never done any thing to forfeit his reciprocal friendship, however he had been misunderstood. He owned that he had a great regard for Lord C. J. Pratt, but never in prejudice to him, and wished Charles to live upon good terms and in confidence with his Lordship: that the only competition which could arise between them was in case of a change of the Great Seal, either by the disability of the present possessor or any other contingency: that he should give or avow his opinion to the King, and the public would be well served by either, but his original acquaintance was with Mr. Attorney, and it would be unbecoming in him and he should be ashamed to attempt any thing to his prejudice."†

But all the attempts which were made on the death of Lord Egremont to bring back the Whig ministers of George II. having failed, Charles Yorke thought that it was full time for him to resign.

He has been too severely blamed for his proceedings while first law officer of the Crown. He did file the criminal informations for "No. 45 of the North Briton," and for the "Essay on Woman;" but few will deny that the one publication was seditious, or that the other was obscene. He was not consulted by Lord Halifax about issuing "general warrants," and he might have been pardoned for saying that they were *primâ facie* legal, as they had been issued by all Secretaries of State since the Revolution, however inconsistent they might be with the principles of the constitution. Although he ought to have opposed the folly of burning libels by the common hangman, which led to such serious riots and mischief, it should be recollected that this was a practice then approved by grave statesmen. He was fully justified in proceeding to outlawry when the demagogue had fled from justice,—and no further step had been taken in the affair when he threw up his office of Attorney-General.

On his retirement there seems to have been a general eagerness to do him honour. The Duke of Newcastle next day wrote to him, saying—"I must congratulate you upon the most honourable and most unusual mark of attention and respect

† June, 1763.

which you received yesterday, both from the Bar and from my Lord Chancellor." He made way for Sir Fletcher Norton, who was appointed Attorney-General on the formation of the Administration which was called the "Duke of Bedford's," but in which George Grenville, fatally for our colonial interests, soon gained the ascendancy.

Freed from the trammels of office (as has often happened), Charles Yorke raised his reputation as a debater. Oct. 1763. Although his name is not afterwards once mentioned in the "Parliamentary History," we know from contemporary letters and incidental notices that he condemned the issuing of "general warrants," but that he strenuously contended that privilege of parliament does not extend to the case of seditious libel. Jan. 1765 On this last subject he gained the victory over Pratt, and rivalled Pitt himself, who was in the habit of exalting or disparaging the power of the House of Commons as it suited his purpose. We have a lively sketch of the "Privilege Debate" from Horace Walpole:—

"Mr. Pitt, who had the gout, came on crutches, and wrapped in flannels, but was obliged to retire at ten at night, after making a speech of one hour and fifty minutes; the worst, I think, I ever heard him make in my life. For our parts, we sat till within ten minutes of two in the morning; yet we had but few speeches, all were so long. Charles Yorke shone exceedingly. He had spoken and voted with us the night before; but now maintained his opinion against Pratt. It was a most able and learned performance; and the latter part, which was oratoric, uncommonly beautiful and eloquent. You find I do not let a partiality to the Whig cause blind my judgment. That speech was certainly the masterpiece of the day. Norton would not have made a figure if Charles Yorke had not appeared; but, giving way to his natural brutality, he got into an ugly scrape."

In the course of these discussions, Dunning, who had a great spite against the Yorkes, made a violent attack both A.D. 1763. on the father and the son. "If I were," said he,

\* His fee-book shows that he had made, the last year of his Attorney-Generalship, 7,322*l.* 5*s.* 6*d.*, but that his early receipts had not been by any means so great as might have been expected: 1st year, 121*l.*; 2nd, 201*l.*; 3rd and 4th, between 300*l.* and 400*l.* in each; 5th, 700*l.*; 6th, 800*l.*; 7th, 1000*l.*; 9th, 1600*l.*; 10th, 2500*l.*; in 1757, when Solicitor-General, 3400*l.*; 1758, 6000*l.*

† Horace, afterwards writing to Lord Hertford says: "Mr. Yorke's speech in our House,

and Lord Mansfield's in your's, carried away many of the opposition." Mr. Onslow, in a letter to Lord Hardwicke, wrote: "Mr. Yorke has this moment closed the noblest performance that was ever heard—in answer to the most beastly and brutal speech of Norton, who said he would treat the opinion of parliament in this matter as the opinion of a drunken porter. Nothing ever met with such applause as C. Yorke. Pitt is in love with him, and so we are all."

“to characterise a late great Chancellor, I should say that I cannot think he merited the appellation of a patriot, having ever regarded him as a decent, circumspect, prerogative lawyer; that he leaned, in his notions, too much towards aristocracy; that he seemed, in his politics, to approach much nearer to the principles of the Earl of Clarendon than of Lord Somers; and that, at last, upon what public principles I could never learn, he joined the Opposition, after having been in all things with the Court for forty years before. I could never determine whether he had, or had not, a good conception of our foreign interests, although I always imagined he had a thorough one of all the domestic connections amongst us. I might ask whether his Lordship did not uniformly, throughout his life, pursue his own private interest, and raise the greatest fortune, and provide the most amply for his family, of any lawyer who ever lived; and whether, during his administration, the judicial promotions were not disposed of upon ministerial motives, or agreeably to professional desert? I might, nevertheless, and ought to add, that the same illustrious personage was blessed with a good temper and great worldly prudence, which are the two hand-maids in ordinary to prosperity; that his whole deportment was amiable; that he possessed, in general, the soundest understanding in matters of law and equity, and the best talents for judicature I had ever seen; and that he might be cited as an example, in this country, of the perfect picture of a good judge, which my Lord Bacon hath so admirably drawn. He was free from the levities, vices, and excesses which frequently disfigure men of a lively and fruitful fancy. His station did not require, nor his genius furnish him with imaginative wit or eloquence, and, perhaps, had he possessed a true taste for the fine arts and the polite parts of literature, he would never have been so extensive a lawyer, to which, however, the plainness of his education might have somewhat contributed. In short, we may say that Lord Somers and he seem to have been, in every respect, the reverse of each other.” Afterwards he went on with the son:—“I do not mean to forget that a certain candid lawyer united his best endeavours to strangle the *Habeas Corpus Bill*; but then he did it in so delicate and qualified a manner, that surely he cannot expect to have his pass for a first-rate part upon the occasion. Ticklish times, or political struggles, always bring to light the real abilities of men, and let one see whether a man

owes his reputation and rank to family interest, and an attention to please, or to real great parts, a sound judgment, and true noble spirit. People of the latter class become for ever more considerable by opposition; whereas the former, by degrees, sink to common men when deprived of artificial support, and should therefore never quit, for one moment, a Court; or if, by connection or chance, they are compelled so to do, should return to it again as fast as possible."<sup>u</sup> To these tremendous sarcasms, rendered more outting from being edged with seeming candour, Yorke is said to have made a spirited reply, but, unfortunately, it is lost to us. We are only told that, passing over with slight notice the disparaging strictures on himself, he vindicated his father from all the charges brought against him. With respect to the abuse of judicial patronage, he cited the names of Ryder, Lee, Strange, Foster, Pratt, Denison, and Wilmot, promoted by him — "a series of almost sacred names requiring no epithets." Of the ex-Chancellor's private virtues he took rather a lofty estimate; but his judicial merits, which it was impossible to appreciate too highly, he justly held up to the admiration of mankind.\*

The Attorney-General, on his resignation, appeared at first outside the bar in a stuff gown, for he had not had a silk gown before his promotion to be a law officer of the Crown, and the practice had not yet been introduced of making the person so promoted likewise a King's counsel, so that he may not be reduced to the ranks when he loses office.<sup>y</sup>

But the Administration now in power, wishing to soften the ex-Attorney-General's hostility to them, offered him a "patent of precedence,"—to move next after A.D. 1764. the Attorney-General for the time being—which he accepted as a fair mark of respect for his professional eminence. Yet this was proclaimed at White's to be a proof of tergiversation. "Opposition," writes a correspondent of George Selwyn, "seems to be on its death-bed; the Yorkes have left it; Charles Yorke has been squeamish, and would not return to

<sup>u</sup> This is one of the best specimens of Dunning's eloquence preserved to us. Although he was for years such a brilliant debater in the House of Commons, we can judge of his powers almost exclusively by the impression which they produced. It is a curious fact, that when he went into the House of Lords he utterly failed. Lord Mansfield and Lord

Brougham are nearly the only lawyers who have succeeded equally in both assemblies.

\* See Law Mag. No. lxi. p. 87.

<sup>y</sup> To correct this in Dunning's case, when he ceased to be Solicitor-General, Lord Mansfield, with the general concurrence of the outer bar, called to him to move immediately after the Recorder of London.

his old post again, but kisses hands to-morrow for his patent of precedence. He has acted as most lawyers do out of their business,—with as much absurdity, and as little knowledge of the world, as the fellow of a college.” “When Charles Yorke left us,” says Horace Walpole to Lord Hertford, “I hoped for the desertion of Charles Townshend, and my wish slid into this couplet:—

“TO THE ADMINISTRATION.

“One Charles, who ne’er was ours, you’ve got, ’tis true;  
To make the grace complete, take t’other too.”

In the same strain Single-Speech Hamilton writes to Calcraft:—“Mr. Yorke’s patent of precedence, by himself and his friends, is stated as a piece of very disinterested conduct, but is considered by all the rest of the world in a very different light. His having a promise of being Chancellor is asserted and denied, exactly as people are differently affected to him; but the opinion of his being to succeed his brother as Teller of the Exchequer gains credit..... Mr. Yorke seemed to be so much ashamed of his patent, that he did not come to kiss hands for it on Friday, which you know was a crowded day at court.”<sup>2</sup>

While Mr. Grenville was in vain trying to tax America, A.D. 1765. and to extinguish Wilkes, Charles Yorke, without supporting him, did not very actively oppose his measures, and chiefly confined himself to his practice at the bar, which continued undiminished, although he was now without the *prestige* of office. Having won the great Downing College cause, a letter of thanks, in Latin, was forwarded to him by the public orator of the University of Cambridge, under a vote of Convocation, to acknowledge his services, formerly in establishing their privilege of printing books, and more recently in obtaining a decree by which a great estate was secured to them for building and endowing a new college. This testimony was peculiarly grateful to him, as strengthening the ties which for generations connected his family with the University which they had so much adorned. Soon after, he was elected one of its representatives in Parliament.

Although out of office, he was still exposed to flattery; and thus he was addressed by the famous Dr. Dodd, who was then a candidate for the preachiership of Lincoln’s Inn.

<sup>2</sup> Dec. 1, 1764; Chat. Corr. 299 n.

expecting soon to be a bishop instead of dying as a malefactor:—"I am satisfied that all my endeavours will be fruitless without your interest, which is (and indeed, from your superior merit, ought to be) most powerful. I humbly and earnestly entreat your support and concurrence. This granted, I shall not doubt of success: this denied me, I shall give up the pursuit. I have, indeed, little to urge to engage your favour; a desire to deserve well of my fellow creatures is my best plea." But Hurd was preferred.

On the formation of the first Rockingham Administration, consisting of most virtuous men, with the most patriotic intentions, Charles Yorke joined them,—resuming his office of Attorney-General;—and, oh! if he had never deserted them! In that case his career might have been prosperous to its termination, and he might have left an unclouded name to posterity. He did long steadily adhere to them, although he was fatally seduced from them at last. He zealously co-operated in the repeal of the Stamp Act, and the other popular measures of this short-lived government.

While he was Attorney-General the second time, the writ of error came to be argued before the Court of King's Bench in the famous case of *Money v. Leach* A.D. 1766. to determine the validity of "general warrants."<sup>a</sup> He was rather in a delicate predicament; for his own opinion, which he had expressed in parliament, was against them, and Lord Mansfield, without absolutely committing himself, had intimated pretty strongly during the discussion an agreement on this question with Lord Camden. Yet, as counsel for the Crown, he was bound to contend that the King's messenger was not liable to the action for false imprisonment brought by the plaintiff for having been arrested under a general warrant, as one of the publishers of the "North Briton, No. 45." From this dilemma Mr. Attorney dexterously extricated himself by magnifying another objection raised to his justification, and allowing the judgment of the Court to pass against him on that, while he left the main question without any formal adjudication.<sup>b</sup>

In the spring of 1766, an intrigue was going on for bringing in Charles Yorke as Chancellor to a new Cabinet. Thus writes Lord Shelburne to Mr. Pitt, giving an account of a conversation he had had with Lord Rockingham:—

<sup>a</sup> Burrow, 1692.

<sup>b</sup> 19 St. Tr. 1027.

"In regard to the Duke of Newcastle and Mr. Yorke, though he had reason to believe they might be brought into every thing that was desired, yet it was to be wished that it should be proposed with a certain degree of reserve. I observed, or at least thought, he avoided saying whether the Seals were to be Mr. Yorke's object, but seemed carefully to adhere to such general terms as I have mentioned."<sup>c</sup>

In July, 1766, when the Rockingham Administration was unfortunately routed, Yorke, still at variance with Pitt, who constructed the motley Cabinet which succeeded, again resigned his office of Attorney-General, which he never resumed,<sup>d</sup> and he remained in opposition till the ever deplorable moment when he consented to accept the Great Seal.<sup>e</sup>

At the time of his last resignation he narrowly missed the office of Chief Justice of the Common Pleas. On Pratt's elevation to the woolsack, this was given to Sir Eardley Wilmot. The ex-Attorney-General, without his "pillow," preserved his good-humour, and thus addressed his more fortunate friend :—

"Tittenhanger, August 11, 1766.

"Dear Sir,

"I know not whether you are yet Chief Justice of the Common Pleas in form, but give me leave to congratulate you and the public on your advancement. The kind and uniform friendship which you have shown me, makes me feel a real pleasure on the occasion. *Dieu vous conserve dans sa sainte garde, et moi dans votre amitié!*"

A copy of an elegant edition of Cicero accompanied this letter as a present, which is preserved with the following inscription upon it in Sir Eardley's handwriting :—

<sup>c</sup> 24th Feb. 1766.

<sup>d</sup> He was succeeded by Ds Grey, afterwards Lord Walsingham. It would appear that an effort was then made to induce him to continue in office. Lord Chatham, in a PS. to a letter to the Duke of Grafton, on the formation of this Ministry, says,—

"I saw Mr. Yorke yesterday; his behaviour and language very handsome: his final intentions he will himself explain to the King in his audience to-morrow."—*MSS. of Duke of Grafton.*

<sup>e</sup> He and his family were much chagrined because he had not long before replaced Lord Northampton on the woolsack. In the Diary of the second Earl of Hardwicke is to be found this passage :—"It cannot be sufficiently repeated, that he resumed the office of Attor-

ney-General on an express promise from the King's own mouth, that he should be Lord Chancellor by the end of next session; and when my brother begged of his Majesty (as decency and duty required) that he would not engage himself so far, the King replied, 'I will pledge myself to you.' The King likewise, previous to this conference, wrote a letter to Lord Egmont, to be shown my brother, in which he entered into the same kind of engagement; but the letter itself I never saw, nor had Mr. Y. a copy of it. Certain it is, that his friends had it in their power at that juncture to have made him Chancellor, as Lord Northampton was generally disliked; but they wanted his assistance in the House of Commons, where they had no able speaker in the law line."



"THE GIFT OF THE HONOURABLE CHARLES YORKE.

"Quem tu, Dea, tempore in omni,  
Omnibus ornatum voluisti excellere rebus."

Still Yorke retained his literary tastes and friendships, and he was more delighted with a new book than with a well indorsed brief. Thus he writes to Warburton, now in lawn sleeves:—

"Feb. 2, 1767.

"My dear Lord,

"I cannot resist the impulse of thanking you in three words for the perusal of your new discourses, as well as your last letter. All the fruits of your friendship are pleasing to me. The book was most eagerly devoured. How do you manage always to say something new upon old subjects, and always in an original manner? The bookseller favoured me with it just on the eve of the 30th of January, and within three days of Candlemas; one of them the greatest *Civil Fast* in England, and the other the greatest Religious Festival of Antichrist. Your Lordship has furnished me with such meditations for both, that I must add it to the account of my obligations,

"And remain always,

"Your Lordship's most faithful

"And affectionate humble Servant,

"C. YORKE."

He had for a client the celebrated David Garrick, from whom he refused a fee till it was forced upon him, and whom he often invited to his house. At one of these visits there was a discussion on a passage of Shakspeare, which next day drew forth the following epistle:—

"Xmas Day.

"Sir,

"As it is my greatest pride to be thought of favourably by Mr. Yorke, I would not chuse to appear ignorant at his table; and therefore I have taken the liberty to explain something which I said in the warmth of conversation yesterday. My good friend Mr. Wray rides always so swift a nag, that whoever strives to follow him will be apt to stumble. This was my case, when we talk'd about Hamlet and the 'mobled Queen.' He asked me, what was 'mobled?' I answered, *Clouted*. But something running in my head, and the demon of criticism (slipping down with y<sup>e</sup> Burgundy) possessing me at y<sup>e</sup> instant, I said, Is it not *mob-led*? When I returned home, and was looking into a memorandum book, where I had collected every scrap about Shakespear, I found that

I had met with this interpretation of 'mobled' in some pamphlet or other, and that I had written under it, Absurd and ridiculous; and most certainly it is so. Dr. Warburton says—Mobled, or mabled, signifies veiled; Johnson—Huddled, or grossly covered. Capel has it, Ennobled queen, w<sup>th</sup> I don't understand. Shakespear certainly means, wretchedly clad:

————— 'A clout upon that head,  
Where late the diadem stood,' &c.

I have taken the liberty to say thus much, lest I shou<sup>d</sup> be thought too ignorant by those I had the honour to converse with yesterday

"I am, most gratefully, Sir,

"Your most obedient and very humble servant,

"D. GARRICK.

If you won<sup>d</sup> likewise turn y<sup>e</sup> edge of Mr. Wray's wit from me upon this occasion, my mind will be at peace."

At this time he carried on a correspondence with Stanislaus Augustus, the unfortunate King of Poland, to whom he seems to have complained of his loss of office and his dreary prospects. He received the following consolation and advice, in a letter addressed "à M. Yorke, ci-devant Avocat-Général:—"—

"Mon cher Charles Yorke,

"Vous serez toujours Charles Yorke, tel titre que vous preniez, ou que vous résigniez; et c'est le nom que j'aimerois toujours le plus à vous donner parce qu'il convient le mieux à la sincère et intime amitié dans laquelle nous avons vécu, et dont le sentiment durera autant que moi-même. Comme j'écris plus amplement à votre frère l'Ambassadeur, et que je compte dire aux deux frères ce que je dis à l'un (en vertu de cette union digne des temps Patriarchals que j'ai tant admirée dans votre famille), je ne répète pas ici sur Harris que j'ai été charmé de connaître et d'accueillir avec distinction, ni sur ma situation présente qui redevient très critique. Tout ce que je vous dirai c'est, que si jamais on vous offrait la Couronne de la Pologne, je ne vous conseille pas de l'accepter, pour peu que vous aimiez votre repos. Puissiez-vous, mon cher et digne ami, jouir bien à votre aise de cet *otium cum dignitate* pour lequel vous êtes à tous égards si bien qualifié—et dont les douceurs apparemment ne deviendront jamais mon partage! Puisais-je pour soulagement dans ma pénible carrière avoir au moins encore une fois le plaisir de vous embrasser! J'ajoute cette prière à celle que je fais tous les jours: 'Seigneur, donnez de la sagesse, du courage, et de la patience, à mesure que vous me donnez de la peine.' Adieu, mon ami, pour cette foia.

"S. A. R.

So happy had he been with his first wife, that he had again entered the married state, being united to Agneta, daughter of Henry Johnson, Esq., of Berk-<sup>A.D. 1769.</sup> hampstead, a lady of great accomplishments, with whom he lived happily, and who brought him a son, the late Sir Joseph Yorke, of the royal navy, said to have been the delight of the quarter-deck, and whom I remember the delight of the House of Commons.

The ex-Attorney-General now had a charming villa near Highgate, where his family resided, and to which he eagerly retired as often as the Court of Chancery and Parliament would permit. There Warburton paid him a visit in June, 1769. The following letter, notwithstanding its lively tone, cannot be read without melancholy, when we recollect that the meeting which it describes was the last that ever took place between the two friends,—and that a terrible catastrophe was at hand:—

“Last Thursday we dined with Mr. and Mrs. Yorke at Highgate. It was not a good day; but we walked on his terrace and round his domain. He has improved it much. But, in contempt of your *latebræ dulces*, you enter the terrace by the most extraordinary gate that ever was. His carpenter, I suppose, wanting materials for it, got together all the old garden-tools, from the scythe to the hammer, and has disposed them in a most picturesque manner to form this gate, which, painted white, and viewed at a distance, represents the most elegant Chinese railing, though I suspect the patriotic carpenter had it in his purpose to ridicule that fantastic taste. Indeed, his new-invented gate is full of recondite learning, and might well pass for Egyptian interpreted by Abbé Pluche. If it should chance to service the present members of the Antiquarian Society (as it well may), I should not despair of its finding a distinguished place amongst their future ‘*Transactions*’ in a *beautiful copper-plate*. I was buried in these contemplations when Mr. Yorke, as if ashamed of, rather than glorying in, his artificer’s sublime ideas, drew me upon the terrace. Here we grew serious; and the fine scenes of nature and solitude around us drew us from the Bar of the House and the Bishops’ Bench to the memory of our early and ancient friendship, and to look into ourselves. After many mutual compliments on this head, I said,—‘that if at any time I had been wanting in this sacred relation, I had made him ample amends by giving him the friendship of the present preacher of Lincoln’s Inn.’ His sincerity made him acknowledge the greatness of the benefit; but his politeness made him insist upon it ‘that it was not a debt which he had received at my hands, but a free gift.’ Let it be what it will, I only wish he may show the world he knows the value of it. This I know, that his father, amidst all his acquaintance, chose the most *barren* and *sapless*—on which *dry plants*

to shower down his more *refreshing rain*, as Chapman very sensibly called it."<sup>s</sup>

These two worthy divines certainly valued their legal friend on account of his personal good qualities, but likewise on account of the rich church patronage which they believed would belong to him, for they confidently expected that he would one day hold the Great Seal like his father, and, by heaping preferment upon them, make a better use of it.

Charles Yorke's last great appearance before the public as an advocate was at the bar of the House of Lords, in the famous Douglas cause; when, along with Wedderburn, he strenuously, though unsuccessfully, strove to support the judgment of the Court of Session, which had been pronounced against the legitimacy of the claimant.

Horace Walpole, ever eager to disparage all who bore the name of Yorke, giving an account of this trial in his "Memoirs of George III." says,—“Mr. Charles Yorke was the least admired. The Duchess of Douglas thought she had retained him; but, hearing he was gone over to the other side, sent for him, and questioned him home. He could not deny that he had engaged himself for the House of Hamilton. ‘Then, Sir,’ said she, ‘in the next world whose will you be, for we have all had you?’”<sup>a</sup> But there can be no doubt that, in pleading for the respondent, he acted according to the rules of professional etiquette and of honour; and that he displayed ability and eloquence not surpassed by any who joined in the noble strife.

After the judgment of reversal, he very handsomely came forward to vindicate Andrew Stewart, the Duke of Hamilton's agent in conducting the cause, from the aspersions cast upon him by Lord Mansfield and Lord Camden. Thus he wrote to him, intending that the letter should be made public:—

“Let me beg of you one thing as a friend—not to be too anxious, nor feel too much because things impertinent or injurious are said of yourself. Can any man exert his talents and industry in public or private business without staking his good name upon it? or at least exposing himself to the jealousy of contending parties, and even to their malice and detraction?”—“All who study the cause must be convinced of the purity of your intentions, and the integrity and honour of your conduct.”—“The sincere opinion of a friend declared on such occasions &c

trying and important, is the genuine consolation of an honest mind. In such causes an advocate is unworthy of his profession who does not plead with the veracity of a witness and a judge."

Whether in or out of office—while Charles Yorke maintained the independence of the bar, he behaved with great courtesy to the Judges before whom he practised:—"It was impossible," says George Hardinge, "to conceive any deportment more graceful in good manners for the bench than Mr. Yorke's towards Lord Camden, as long as the latter held the Seals,—and these attentions were mutual. Indeed the Court and the Bar were upon terms of the most amiable intercourse imaginable."<sup>i</sup>

Although Charles Yorke had been professedly in opposition since the last resignation of his office of Attorney-General in July, 1766, he was supposed at times to have coquetted with the Ministry, but latterly he had allied himself more closely with the Rockingham Whigs. His elder brother, the second Earl of Hardwicke, was a most zealous member of that party. After Lord Chatham's resuscitation, which followed his resignation, the two sections of the Whig party were reconciled, and formed a formidable opposition to the Court, now bent on taxing America, and trampling on the liberties of the people by persisting in the perpetual disqualification of Mr. Wilkes to sit in parliament. If all the Whigs remained true and steady to their engagements, the greatest hopes were entertained that the illiberal members of the Cabinet might be compelled to resign;—that America might be conciliated, and that tranquillity and the constitution might be restored at home.

With this prospect opened the session of 1770; when, Lord Chatham having again thundered against ministerial corruption and imbecility, Lord Camden made his A.D. 1770. startling disclosure, that for years he had absented himself from the Council while the most important subjects of colonial and domestic policy were debated there, because he utterly condemned the course which his colleagues were obstinately pursuing.<sup>k</sup> The total surrender of the Government depended upon whether any lawyer, of decent character

<sup>i</sup> MS. Life of Lord Camden.

<sup>k</sup> Horace Walpole says,—“The Duke of Grafton accused him of having made no objection to Luttrell's admission; his friends affirmed he had; and Lord Sandwich allowed that he had reserved to himself a liberty of

acting as he pleased on every question relating to Wilkes. The Chancellor's mind certainly fluctuated between his obligations to Lord Chatham and the wish to retain his post. The Duke of Grafton's neglect determined the scale.”—*Walp. Mem. Geo. III.* iv. 42.

and abilities, could be found to succeed him. Lord Shelburne, knowing this, had declared in the House of Lords, "that the Seals would go a-begging; but he hoped there would not be found in the kingdom a wretch so base and mean-spirited as to accept them on the conditions on which they must be offered."<sup>m</sup> This was in the night of Tuesday, the 9th of January.

A meeting of the Opposition leaders was held next morning, when they resolved that Lord Camden should be requested to hold the Great Seal till he should be dismissed; and that all their influence should be used to prevent any lawyer of character from agreeing to accept it. Simultaneously the King and his "friends" determined that if Lord Camden did not voluntarily resign, he should be dismissed, and that a successor to him must be found at any price. Lord Mansfield would have been the first object of their choice, but in less ticklish times he had expressed a firm purpose never to exchange his permanent office of Chief Justice of the King's Bench for the fleeting *éclat* of the Chancellorship.<sup>n</sup> The great effort to be made was to gain over Charles Yorke, whose secession would add much credit to their cause, and materially damage the Whigs. A letter was immediately written to him making an overture in very general terms, and in the evening of the following day a long interview took place between him and the Duke of Grafton. The Great Seal was now distinctly offered to him; and when he talked of his past political connections, a hope was held out to him of the admission of some of his friends into the Cabinet, and of the adoption of a more liberal policy. He required time for consideration, but seemed in a humour so complying that the Duke of Grafton made a very favourable report to the King of the state of the negotiation. Charles Yorke, however, having stated what had passed to a meeting of Whigs at Lord Rockingham's, they pronounced the whole proceeding treacherous and deceitful; they foretold that, as soon as he had been inveigled to leave his party, the Court would treat him with contumely,

<sup>m</sup> Horace Walpole represents that General Conway tried to prevail upon the Duke of Grafton to continue Lord Camden in office, and that the Duke "told him he was to see a person of consequence at night on that subject." "That person," said Horace to Conway, "is Charles Yorke, who is afraid of be-

ing seen going into the Duke's house by daylight."—*Memoirs of George III.* iv. 44.

<sup>n</sup> Horace Walpole says,—"It had been thought necessary to make Lord Mansfield the compliment of offering him the Seals; but if this offer was then repeated, it must have been an empty form.

and they prevailed upon him to give them a pledge that he would be true to them. He returned to the Premier, and declared that he positively declined the Great Seal. Being then asked if he had any objection to see the King, who had condescendingly expressed a wish to confer with him, he said "he felt bound as a faithful subject to obey what he considered a command from his Sovereign," and he showed such alacrity in yielding to the wish as to create a belief in the Duke's mind that he had voluntarily solicited the interview. It took place at St. James's, on Saturday the 13th of January. The particulars of the conversation are not known, but as yet Charles Yorke remained firm, and the King, with deep concern, wrote to the Duke of Grafton that he had been able to make no impression on the obstinate lawyer.

This refusal caused great joy among the Whigs, and news of it being sent to Hayes, where Lord Chatham then was, he thus wrote:—

"Wednesday, Jan. 17, 1770.

"Mr. Yorke's refusal is of moment; and I can readily believe it, from my opinion of his prudence and discernment. No man with a grain of either would embark in a rotten vessel in the middle of a tempest, to go he knows not whither. I wish our noble and amiable Chancellor had not been so candid as to drag the Great Seal for one hour at the heels of a desperate Minister, after he had hawked it about with every circumstance of indignity to the holder of it."

Before this wish was expressed, the prudence and the virtue of Charles Yorke had been overpowered. The Ministers had abandoned all hope of gaining him, and were thinking of pressing the Great Seal on Sir Eardley Wilmot, or De Grey the Attorney-General;° but the King himself, without consulting them, with great dexterity and energy made an attempt, which at first seemed crowned with brilliant success, though it terminated so fatally.

° Horace Walpole thus notices the lawyers who might have been thought of for Chancellor at this time:—"Norton had all the requisites of knowledge and capacity, but wanted even the semblance of integrity, though for that reason was probably the secret wish of the Court. He was enraged at the preference given to Yorke; yet nobody dared to propose him even when Yorke had refused. Sir Eardley Wilmot had character and abili-

ties, but wanted health. The Attorney-General, De Grey, wanted health and weight, and yet asked too extravagant terms. Dunning, the Solicitor-General, had taken the same part as his friends Lord Camden and Lord Shelburne. Of Lord Mansfield there could be no question; when the post was dangerous, his cowardice was too well known to give hopes that he could be prevailed to defend it."—*Memoirs Geo. III.* iv. 49.

On Tuesday, the 16th of January, there was a levee at St. James's, and Charles Yorke thought it his duty to attend for the purpose of testifying his loyalty and personal respect for the Sovereign. To his great surprise he met with a very gracious reception, and the lord in waiting informed him that his Majesty desired to see him in his closet when the levee was over. He hardly thought it possible that the offers to him should be repeated, but he resolutely determined at all events to be faithful to the engagements into which he had entered. Again led into temptation, he was undone. Long after he entered the King's closet he firmly, though respectfully, resisted the solicitations by which he was assailed—urging, by way of excuse, his principles, the opinions he had expressed in parliament, his party connections, and the pledge he had given to his brother. But he could not stoutly defend his reasons against a royal opponent, who naturally thought himself entitled to the services of all born under allegiance to the English crown, and who could not well appreciate objections to the performance of the duties of a subject. The King made some impression by declaring, that, with such a Chancellor as he wished, an administration might soon be formed which the nation would entirely approve. He added,—“My sleep has been disturbed by your declining. Do you mean to declare yourself unfit for it? If you will not comply, it must make an eternal breach betwixt us. Rescue me from the degrading thralldom to which I am reduced.” The yielding disputant had no answer to make to this appeal; his virtue cooled as his loyalty was inflamed: unable longer to resist,—without making any stipulations for himself, with respect to pension or tellership,—he sank down on his knees in token of submission,—and the King, giving him his hand to kiss, hailed him as “Lord Chancellor of Great Britain.”

Charles Yorke, by his Majesty's command, then proceeded to the house of the Duke of Grafton, to inform him of what had happened. The minister, all astonishment, could not believe his own ears, and hurried down to St. James's—where the King fully confirmed the news of the victory which had been won. According to the representation of the second Earl of Hardwicke, Charles Yorke had not yet the courage to disclose his lapse to his old political associates, and, the whole of this day, declared to them that he had refused all the King's offers; but he seems to have been in



such an excited and disturbed state of mind as hardly to have been conscious of what he said or did.

The same evening the Great Seal was taken from Lord Camden, and the next day a council was held, at the Queen's House, for delivering it to the new Chancellor, and administering to him the oaths of office.

As he was never installed in Westminster Hall, nor ever sat in the Court of Chancery, there is no entry respecting him as Chancellor to be found in the Close Roll, or in the records of the Crown Office; but the following minute appears in the books of the Privy Council:—

“ At the Court at the Queen's House, the 17th of January, 1770,

“ Present, the King's Most Excellent Majesty in Council :

“ His Majesty in Council was this day graciously pleased to deliver the Great Seal to the Right Honourable Charles Yorke, Esquire, who was thereupon, by his Majesty's command, sworn of his Majesty's Most Honourable Privy Council, and likewise Lord High Chancellor of Great Britain, and accordingly took his place at the board.”

At the same time a warrant was signed by the King for a patent raising him to the peerage, by the title of Baron Morden, of Morden, in the county of Cambridge.

In the course of this day Lord Chancellor Charles Yorke drove to his brother's to communicate to him what he had done. It so happened that Lord Rockingham, Lord Hardwicke, and the other leaders of opposition, were then holding a meeting to concert measures against the Government. He was introduced to them, and unfolded his tale. We are told that it was received with a burst of indignation, and that all present upbraided him for a breach of honour. According to Lord Hardwicke's Diary, he again called in the evening of the same day, when the brothers conversed more calmly. But it is certain that when he went home his mind was sorely harassed with the severity of the reproaches which had been cast upon him.

That very night it was announced that he was dangerously ill; and at five o'clock in the evening of Saturday the 30th of January, three days after he had been sworn in Chancellor, he was no more. His patent of nobility had been made out and was found in the room in which he died, but the Great Seal had not been affixed to it, so that the title did not descend to his heirs. He expired in the forty-eighth year of his age.

A suspicion of suicide immediately arose, and a controversy has ever since been maintained on the question whether that suspicion was well founded. Fortunately it is no part of my duty to give an opinion upon a subject so delicate and so painful. Would to God that I could entirely avoid it! I shall content myself with stating the authorities on both sides, leaving the reader to draw his own conclusion. In our time, on a death so sudden occurring, a coroner's inquest would be held as a matter of course; but no coroner's inquest was held, although it would appear that the body was exhibited by order of the family to check the circulation of the rumours which were afloat.

About three weeks after the event, there came out, in the "Public Advertiser," a letter to the Duke of Grafton from JUNIUS,<sup>p</sup> in which that unscrupulous writer, alluding to the dismissal of Lord Camden and the death of Charles Yorke, says,—

"One would think, my Lord, you might have taken this spirited resolution<sup>q</sup> before you had dissolved the last of those early connections which once, even in your own opinion, did honour to your youth—before you would oblige Lord Granby to quit a service he was attached to—before you had discarded one Chancellor and killed another. To what an abject condition have you laboured to reduce the best of Princes, when the unhappy man who yields at last to such personal instance and solicitation as never can be fairly employed against a subject, feels himself degraded by his compliance, and is unable to survive the disgraceful honours which his gracious Sovereign had compelled him to accept! He was a man of spirit, for he had a quick sense of shame, and death has redeemed his character. I know your Grace too well to appeal to your feelings upon this event; but there is another heart, not yet, I hope, quite callous to the touch of humanity, to which it ought to be a dreadful lesson for ever."

In the following year Junius reiterated the charge:—

"Enough has been said of that detestable transaction, which ended in the death of Mr. Yorke. I cannot speak of it without horror and compassion. To excuse yourself, you publicly impeach your accomplice, and to *his* mind perhaps the accusation may be flattery. But in murder you are both principals. It was once a question of emulation; and if the event had not disappointed the immediate schemes of the closet, it might still have been a hopeful subject of jest and merriment between you."<sup>r</sup>

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<sup>p</sup> Feb. 1770.

<sup>q</sup> The Duke's own resignation.

<sup>r</sup> Letter to the Duke of Grafton, 22nd June 1771.

Sir Nathaniel Wraxall, commenting on this passage, says, "The transaction to which Junius refers is one of the most tragical which has taken place in our time. Mr. Yorke closed his existence in a manner strongly resembling the last scene of the lamented ———," mentioning the name of an illustrious man, who, in a fit of mental aberration, arising from deep grief, had shortened his days.

Jeremiah Markland, on the 5th of February, 1770, thus wrote to Mr. Bowyer:—

"Your letter of February 1 gave me a new and melancholy light concerning the last Chancellor who died . . . ! But the spirit which appears in many of our nobility, and the cession of one great wicked man, whose parts, I was afraid (and there was more reason for the fear than, I presume, was generally apprehended), had got an entire superiority over the weakness of another, have made me very easy as to political matters. I had expressed my apprehensions in many political squibs and crackers, which I had occasionally let off; but shall now suppress them as unnecessary. The last was this:—

*'To the D. of G.*

'How strangely Providence its ways conceals!  
From Pratt It takes, Yorke it takes from, the Seals:  
Restore them not to Pratt, lest men should say  
Thou'st done one useful thing in this thy day.'"

Horace Walpole, in his "Memoirs of the Reign of George III." says,—

"After struggling with all the convulsions of ambition, interest, fear, horror, dread of abuse, and, above all, with the difficulty of refusing the object of his whole life's wishes, and with the despair of recovering the instant—if once suffered to escape—Charles Yorke, having taken three days to consider, refused to accept the Seals of Chancellor." \* \* \* "Mr. Conway acquainted me in the greatest secrecy that the Duke of Grafton, dismayed at Yorke's refusal of the Great Seal, would give up the administration. Not a lawyer could be found able enough,—or if able, bold enough,—or if bold, decent enough—to fill the employment." \* \* \* "What was my astonishment when Mr. Onslow came and told me that Yorke had accepted the Seals! He had been with the King overnight (without the knowledge of the Duke of Grafton), and had again declined; but being pressed to reconsider, and returning in

\* Nichols's Literary Anecdotes, vol. iv. 288. See likewise "The Whisperer," Feb. 17, 1770.

Horace Walpole is very inaccurate as to dates in this part of his Memoirs. For example, he represents the speeches respecting the dismissal of the Chancellor and the ac-

ceptance of the Seals by another lawyer, made in the House of Lords on the 9th of January, the first day of the session, as made on the 15th of January, when Lord Camden was substantially dismissed, and Charles Yorke had twice refused to succeed him.—*Mem. Geo. III.* iv. 48.

the morning, the King had so overwhelmed him with flatteries, entreaties, prayers, and at last with commands and threats of never giving him the post if not accepted now, that the poor man sank under the importunity, though he had given a solemn promise to his brother, Lord Hardwicke, and Lord Rockingham, that he would not yield. He betrayed, however, none of the rapaciousness of the times, nor exacted but one condition, the grant of which fixed his irresolution. The Chancellor must, of necessity, be a Peer, or cannot sit in the House of Lords.\* The coronet was announced to Yorke, but he slighted it as of no consequence to his eldest son, who would probably succeed his uncle, Lord Hardwicke, the latter having been long married, and having only two daughters. But Mr. Yorke himself had a second wife, a very beautiful woman, and by her had another son. She, it is supposed, urged him to accept the Chancery as the King offered, or consented that the new peerage should descend to her son, and not to the eldest. The rest of his story was indeed melancholy, and his fate so rapid as to intercept the completion of his elevation. He kissed the King's hand on the Thursday;† and from Court drove to his brother, Lord Hardwicke's;—the precise steps of the tragedy have never been ascertained. Lord Rockingham was with the Earl. By some it was affirmed that both the Marquis and the Earl received the unhappy renegade with bitter reproaches. Others, whom I rather believe, maintained that the Marquis left the house directly, and that Lord Hardwicke refused to hear his brother's excuses, and, retiring from the room, shut himself into another chamber, obdurately denying Mr. Yorke an audience. At night it was whispered that the agitation of his mind, working on a most sanguine habit of body, inflamed of late by excessive indulgence both in meats and wine, had occasioned the bursting of a blood-vessel, and the attendance of surgeons was accounted for by the necessity of bleeding him four times on Friday. Certain it is, that he expired on the Saturday between four and six in the evening. His servants in the first confusion had dropped too much to leave it in the family's power to stifle the truth; and though they endeavoured to colour over the catastrophe by declaring the accident natural, the want of evidence and of the testimony of surgeons to colour the tale given out, and which they never took any public means of authenticating, convinced every body that he had fallen by his own hand—whether on his sword, or by a razor, was uncertain.”‡

Cooksey, a relation of the Hardwicke family, on the mother's side, in his “*Life of Lord Hardwicke*,” gives an account of Lord and Lady Hardwicke's children; and, after introducing Philip, the eldest son, thus proceeds:—

“Being a capital supporter of the principles and party which was

\* Horace is here inaccurate in his law as well as his facts.

† This, again, is a mistake, for the Great Seal had actually been delivered to him on

Wednesday, the 17th of January; and it was on the evening of this same day that he drove to Lord Rockingham's.

‡ Mem. of Geo. III. iv. 48—53.

headed by the amiable Marquis of Rockingham, there was no post or office in administration to which he might not have been appointed, as there were none to which his abilities would not have done honour. That body of respected and real patriots generally held their private meetings and consultations at his Lordship's house in St. James's Square; and it was at one of those that his brother appeared with the Seals which his Majesty had prevailed on him to accept, on the resignation of Lord Camden. The expressive silence with which he was received and dismissed by that illustrious assemblage of his friends, made him but too sensible of their disapprobation of his conduct. His self-condemnation of it, also, and horror of consequential shame and diminution of his high character, proved fatal to his life. His last moments gave Lord Hardwicke an occasion of expressing his nice sense of honour and refined delicacy. The Seals, and the patent creating him Baron Morden, were on a table in the apartment of the dying Chancellor. 'What hinders,' said one of his friends, 'the Great Seal being put to this patent, whilst his Lordship yet lives?' 'I forbid it,' said his noble brother. 'Never shall it be said of one of our family, that he obtained a peerage under the least suspicion of a dishonourable practice.'" The biographer then introduces the second son: "Charles, who, after displaying the most shining abilities in the several law offices of Solicitor and Attorney-General, was unhappily appointed Lord Chancellor of England on January 17, 1770; which appointment, not being attended with the approbation of his friends or his own, had such effect on his feelings as to render life insupportable. He quitted it on the 20th of the same month, to the inexpressible grief of all good men who knew him. Happily he leaves a son, heir to his virtues and the honours and great estates of his family."\*

Belsham, in his History of the Reign of George III., thus describes the last hours of Charles Yorke:—

"Lord Camden having in the course of the debate condemned, in decisive terms, the proceedings of the House of Commons, and actually divided on this occasion with Lord Chatham, was immediately compelled to relinquish the Great Seal; but such was the political consternation prevailing at this crisis, that no person competent to the office could be persuaded to accept it. Mr. Yorke, Attorney-General, son of the late Lord Chancellor Hardwicke, a man of the highest professional ability, had given, as was reported and believed, a positive assurance to the Earl his brother, that he would not, upon any terms, listen to the offers of the Court; but, upon being sent for by the King and earnestly solicited, he at length, in a fatal moment, *consented*, and a patent was immediately ordered to be prepared for his elevation to the peerage, by the title of Lord Morden. On repairing to the residence of his brother, in order to explain to him the motives of his acceptance, he was *refused admission*; and, in the agitation of his mind, unable to endure the tor-

ture of his own reflections, he in a few hours put an end to his existence."<sup>a</sup>

Other compilers of Memoirs and Magazines, which have been subsequently given to the world, have repeated the story, without any corroboration of it. But much weight must be given to the following very interesting extract from the MS. journal of the Duke of Grafton :

"Parliament was to meet on the 9th of January, 1770. The necessity of having a Chancellor to vindicate the law authority of the Cabinet was dinned into my ear in most companies I frequented ; and it was particularly remarked that Mr. Charles Yorke had taken no part in the whole business of the Middlesex election that need preclude him from joining in opinion with the decisions of the Commons. Such insinuations were very irksome to me, and about the Court I was still more harassed with them. At last, when I was passing a few Christmas holidays at Euston, Lords Gower and Weymouth came down on a visit. They informed me that the King, on hearing their intention of going to Euston, had expressly directed them to say, that the continuation of the Lord Chancellor in his office could not be justified, and that the Government would be too much lowered by the Great Seal appearing in opposition, and his Majesty hoped that I should assent to his removal, and approve of an offer being made to Mr. Yorke. My answer, as well as I recollect, was, that ' though it did not become me to argue against his Majesty's remarks on the present peculiar state of the Great Seal, I must humbly request that I might be in no way instrumental to dismissing Lord Camden.'

"In a few days after my arrival in London the session opened, when the Lord Chancellor spoke warmly in support of Lord Chatham's opposition to the address ; and while we were in the House, Lord Camden told me that he was sensible the Seal must be taken from him, though he had no intention to resign it. At St. James's it was at once decided that the Seal should be demanded ; but, at my request, Lord Camden held it for some days, merely for the convenience of Government, during the negotiation for a respectable successor. No person will deny that Mr. Charles Yorke, Sir Eardley Wilmot, and Mr. De Grey, would, any of them, have filled the high office of Lord Chancellor with the full approbation of Westminster Hall. They were all three thought of for it, though Sir Eardley's infirm state of health, accompanied by an humble diffidence of himself, which had been a distinguishing mark in his character through life, forbade the hope of his acceptance.

"While I continued in office it was my duty as well as desire to exert myself in endeavouring to render the King's administration as respectable as I was able, though I lamented and felt grievously the loss of Lord Camden's support, from which I derived so much comfort and as-

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<sup>a</sup> Be'sham, i. 303.

sistance; yet I was satisfied that the lawyers I have mentioned were men equal to discharge the duties of a Chancellor. I therefore received the King's commands to write to Mr. Yorke directly. I saw him the next day. He received the offer of the Great Seal with much gratitude to his Majesty, but hoped that he should be allowed to return his answer when he should have given it a day's consideration. Mr. Charles Yorke remained with me between two and three hours, dwelling much on the whole of his own political thoughts and conduct, together with a comment on the principal public occurrences of the present reign. When he came to make remarks on the actual state of things, after speaking with much regard of many in administration, he said that it was essential to him to be informed from me whether I was open to a negotiation for extending the administration, so as to comprehend those with whom I had formerly and he constantly wished to agree. My answer was, that he could not desire more earnestly than myself to see an administration as comprehensive as possible, and that this object could only be brought about by the union of the Whigs—adding that I should be happy to have his assistance to effect it. Mr. Yorke appeared to be pleased with this answer, and after many civilities on both sides we parted. On his return to me the next day, I found him a quite altered man, for his mind was then made up to decline the offer from his Majesty, and that so decidedly that I did not attempt to say any thing farther on the subject. He expressed, however, a wish to be allowed an audience of his Majesty. This was granted, and at the conclusion of it the King, with the utmost concern, wrote to acquaint me that Mr. Yorke had declined the Seal. On his appearing soon after at the levee, his Majesty called him into his closet immediately after it was over. What passed there I know not, but nothing could exceed my astonishment when Lord Hillsborough came into my dressing-room in order to tell me that Mr. Yorke was in my parlour, and that he was Lord Chancellor through the persuasion of the King himself in his closet. Mr. Yorke corroborated to me what I had heard from Lord Hillsborough, and I received the same account from his Majesty as soon as I could get down to St. James's.

“Mr. Yorke stayed but a little time with me, but his language gave me new hopes that an administration might shortly be produced which the nation would approve. How soon did this plausible hope vanish into a visionary expectation, only from the death of Mr. Yorke before he became Lord Morden, or we could have any preliminary discourses on the measure he earnestly desired to forward! I had long been acquainted with Mr. Yorke, and held him in high esteem. He certainly appeared less easy and communicative with me from the time of his acceptance to his death than I might expect, but it was natural to imagine that he would be more agitated than usual when arduous and intricate business was rushing at once upon him. I had not the least conception of any degree of agitation that could bring him to his sad and tragical end. Nor will I presume to conjecture what motives in his own breast, or anger in that of others, had driven him to repent o

the step he had just taken. By his own appointment I went to his house about nine o'clock in the evening, two days, as I believe, after Mr. Yorke had been sworn in at a council board summoned for that purpose at the Queen's House. Being shown into his library below, I waited a longer time than I supposed Mr. Yorke would have kept me without some extraordinary cause. After above half-an-hour waiting, Dr. Watson, his physician, came into the room : he appeared somewhat confused—sat himself down for a few moments, letting me know that Mr. Yorke was much indisposed with an attack of colic. Dr. Watson soon retired, and I was ruminating on the untowardness of the circumstance—never suspecting the fatal event which had occurred, nor the still more lamentable cause ascribed for it by the world, and, as I fear, upon too just ground.

“I rung the bell, and acquainted one of the servants that Mr. Yorke was probably too ill to see me, and that I should postpone the business on which I came to a more favourable moment. Mr. Yorke, I believe, was a religious man : It is rare to hear of such a person being guilty of an action so highly criminal. It must, therefore, have been in him a degree of passionate frenzy bearing down every atom of his reason. You will not wonder that I cannot think on the subject without horror still.”

On the other hand, it is said that besides an exposure of the body to prove that the death was natural, a detailed statement was published by the relations of the deceased, satisfactorily explaining all the circumstances which led to the suspicion ; but, after diligent inquiry, I have not been able to procure a copy of it.

Among the papers of the second Earl of Hardwicke was found the following document, entitled “Private Memorial,” and bearing date Dec. 30; 1770 :—

“I shall set down on this paper the extraordinary and melancholy circumstances w<sup>ch</sup> attended the offer of the Gr. Seal to my brother in Jan<sup>r</sup> last. On the 12th of that month he received, on his return from Tittenhanger, a note from the D. of Grafton, desiring to see him. He sent it immediately to me, and I went to Bloomsbury Square, where I met my brother John, and we had a long conversation with Mr. Yorke. He saw the D. of Grafton (by appointment) in the evening, and his Grace made him (in form and with<sup>t</sup> personal cordiality) an offer of the Gr. S., complaining heavily of L<sup>d</sup> Campden's conduct, particularly his hostile speech in the H. of Lords the 1<sup>st</sup> day of the session. My brother desired a little time to consider of so momentous an affair, and stated to the Duke the difficulties it laid him under. His Grace gave him till Sunday in the forenoon. He (Mr. Y.) called on me that morning (the 14th), and seemed in great perplexity and agitation. I asked him if he saw his way thro' the clamorous and difficult points upon w<sup>ch</sup> it would be immediately expected he should give his opinion, viz the



Middlesex election, America, and the state of Ireland, where the Parliament had just been prorogued on a popular point. 'He seriously declared he did not, and that he might be called upon to devise measures of a higher and more dangerous nature than he sho<sup>d</sup> chuse to be responsible for. He was clearly of opinion that he was not sent for at the present juncture from predilection, but necessity; and how much soever the Gr. S. had justly been the object of his ambition, he was now afraid of accepting it.' Seeing him in so low and fluttered a state of spirits, and knowing how much the times called for a *higher*, I did not venture to push him on, and gave into the idea he himself started, of advising to put the Gr. Seal in commission, by w<sup>ch</sup> time wo<sup>d</sup> be gained. He went from me to the D. of Grafton, repeated his declining answer, and proposed a commission for the present, for w<sup>ch</sup> precedents of various times were not wanting. The D. of Grafton expressed a more earnest desire that my brother sho<sup>d</sup> accept than he did at the first interview, and pressed his seeing the King before he took a final resolution. I saw him again, in Montague House Garden, on Monday the 15th, and he then seemed determined to decline, said a particular friend of his in the law (Mr. W.) had rather discouraged him, and that nothing affected him with concern but the uneasiness which it might give to Mrs. Y.

"On Tuesday forenoon (the 16th) he called upon me in great agitation, and talked of *accepting*. He changed his mind again by the evening, when he saw the King at the Queen's Palace, and finally declined. He told me just after the audience, that 'the K. had not pressed him so strongly as he expected; that he had not held forth much prospect of stability in administration; and, that he had not talked so *well* to him as he did when he accepted the office of Attorney-General in 1765. His Majesty, however, ended the conversation very humanely and prettily, that "after what he had said to excuse himself, it would be cruelty to press his acceptance."' I must here solemnly declare that my brother was all along in such an agitation of mind that he never told me all the particulars w<sup>ch</sup> passed in the different conversations, and many material things may have been said to him w<sup>ch</sup> I am ignorant of. He left me soon after, to call on Mr. Anson and L<sup>d</sup> Rockingham, authorizing me to acquaint everybody that he had declined, adding discontentedly that 'It was the confusion of the times w<sup>ch</sup> occasioned his having taken the resolution.' He appeared to me very much ruffled and disturbed, but I made myself easy on being informed that he would be quiet next day, and take physick. He wanted both *that* and bleeding, for his spirits were in a fever.

"On Wednesday morning (the 17th) I accidentally met with several friends, and told them what I then thought my brother's resolution. Some approved, all acquiesced, nobody much wondered at it. The state of things appeared very fluctuating and uncertain; several resignations had happened, more were talked of, and I had been favoured with no private communications from any quarter (but L<sup>d</sup> Rockingham's) to direct my judgment. That very morning, instead of taking his

physick, he left it on the table, after a broken night's rest, and went to the levee, was called into the closet, and in a manner *compelled* by the K. to accept the Gr. S., with expressions like these: 'My sleep has been disturbed by y<sup>e</sup> declining; do you mean to declare y<sup>r</sup>self unfit for it?' and still stronger afterwards: 'If you will not comply, it must make an eternal breach betwixt us.' At his return from Court, about 3 o'clock, he broke in unexpectedly on me, who was talking with L<sup>d</sup> R., and gave us this account. We were both *astounded* (to use an obsolete but strong word) at so sudden an event, and I was particularly shocked at his being so overborn in a manner I had never heard of, nor co<sup>d</sup> imagine possible between prince and subject. I was hurt *personally* at the figure I had been making for a day before, telling everybody, by his authority, that he was determined to decline; and I was vexed at his taking no notice of me, or the rest of the family, when he accepted. All these considerations working on my mind at this distracting moment, induced me (L<sup>d</sup> Rock. joining in it) to press him to return forthwith to the King, and to intreat His M<sup>ty</sup>, either to allow him time till next morning to recollect himself, or to put the Gr. S. in commission, as had been before resolved upon. We co<sup>d</sup> not prevail. 'He said he co<sup>d</sup> not in honor do it. He had given his word, had been wished joy,' &c. Mr. John Yorke came in during this conversation, and did not take much part in it, but seemed quite confounded. After a long altercative conversation, Mr. Yorke (unhappily then L<sup>d</sup> Chancellor) departed, and I went to dinner. In the evening, ab<sup>t</sup> 8 o'clock, he called on me again, and acquainted me with his having been sworn in at the Queen's House, and that he had then the Gr. S. in the coach. He talked to me of the title he intended to take, that of *Morden*, w<sup>ch</sup> is part of the Wimple estate; asked my forgiveness if he had acted improperly. We kissed and parted friends; a warm word did not escape either of us. When he took leave he seemed more composed, but unhappy. Had I been quite cool, when he entered my room so abruptly at 3 o'clock, I sho<sup>d</sup> have said little, wished him joy, and reserved expostulation till a calmer moment. I was heartily grieved, and expressed it too *sharply*, that he had not represented plainly to the K. the bad situation of his affairs, owing entirely to the imprudent and *hollow* conduct of the court. I thought, having been so ill-used before, he had no reason to conceal wholesome truths now, when he was called upon not from choice but necessity, and to replace a man whom the K. had greatly flattered to retain in his service not long before. This I was authentically informed of not long after. It came from Bob Pratt.

"On Thursday, the 18th, I went to Richmond to compose my thoughts, and to consider what part I sh<sup>d</sup> take, for I was afraid that, in the manner my brother had come in, the public w<sup>d</sup> consider him as carrying the family to court in his pocket. Mr. John Yorke and the Dean of Lincoln spent part of the day in Bloomsbury Square, and he proposed to the former the taking a place in the Ad<sup>ty</sup>, w<sup>ch</sup> the other civilly and gently declined, upon w<sup>ch</sup> Mr. Yorke said, 'Then it w<sup>d</sup> be

the ruin of him.' He said little to them, and appeared quite oppressed and melancholy. In the meanwhile, I had conversed with Dr. Jefferys, and he gave a very friendly and right opinion, 'that I sho<sup>d</sup> do my best to support the part w<sup>ch</sup> my brother had taken.' I came to town with that *resolution*, Friday, in the forenoon, and am persuaded that had I found Mr. Y. as I left him, matters w<sup>d</sup> have ended quite otherwise than they *did*. He was taken very ill that morning, and when I saw him in the evening of the 19th, he was in bed, and too much disordered to be talked with. There was a glimmering of hope on the 20th, in the morning; but he died that day, ab<sup>t</sup> 5 in the evening.

"The patent of peerage had passed all the forms, except the Gr. Seal, and when my poor brother was asked if the Seal sh<sup>d</sup> be put to it, he waved it, and said, 'he hoped it was no longer in his custody.'

"I can solemnly declare, that except what passed at my house on the Wednesday forenoon, I had not the least difference with him thro<sup>t</sup> the whole transaction; not a sharp or even a warm expression passed, but we reasoned over the subject like friends and brothers, reciprocally communicating our respective ideas and intelligence. Seeing the state of mind he was in, I was rather of opinion that he sh<sup>d</sup> let the Gr. Seal be put in commission, and give his opinion freely as a private man in the H. of C. on the point of disqualification, in w<sup>ch</sup> I knew he differed entirely with L<sup>d</sup> Rockingham and his party. In short, the usage he met with in 1766, when faith was broke with him, had greatly impaired his judgment, dejected his spirits, and made him act below his superior knowledge and abilities. He w<sup>d</sup> seldom explain himself, or let his opinion be known in time, to those who were ready to have acted with him in the utmost confidence. After the menacing language used in the closet, to compel Mr. Yorke's acceptance, and the loss w<sup>ch</sup> the Kin<sup>r</sup> sustained by his death at that critical juncture, the most unprejudiced and dispassionate were surprized at the *little* or rather *no* notice that was taken of his family; the not making an offer to complete the peerage was neither palliated nor justified in their opinion. It was due to the *manes* of the departed, from every motive of humanity and decorum. L<sup>d</sup> Hillsborough told a friend of mine indeed, that the K. had, soon after his death, spoken of him with *tears in his eyes*, and enquired after his family; but it w<sup>d</sup> surely not have misbecome his M<sup>y</sup>, conscious of the *whole* of his behaviour to an able, faithful, and despairing subject, to have expressed that concern in a more particular manuer, and to those who were so deeply affected by the melancholy event. A worthier and better man there never was, nor more learned and accomplished in his own profession, as well as out of it. What he wanted was the calm, firm judgment of his father; and he had the misfortune to live in times w<sup>ch</sup> required a double portion of it. Every precaution was taken by me to prepare him for the offer, and to persuade him to form some previous plan of conduct, but all in vain. He w<sup>d</sup> never explain himself clearly, and left every thing to chance, till we were *all* overborn, perplexed, and confounded in that fatal interval w<sup>ch</sup> opened and closed the negotiation with my brother. With him the

Somers line of the law seems to be at an end; I mean of that set in the profession who, mixing principles of liberty with those proper for monarchy, have conducted and guided that great body of men ever since the Revolution

\* *Manibus date lilia plenis,  
Purpureos spargam flores, et fungar inani  
Munere vir.*

"1781. I have reason to think, from what L<sup>d</sup> H—gh hinted to me this winter, that some means were used w<sup>ch</sup> I was ignorant of, to bring my brother to court when the Gr. S. was forc'd upon him."<sup>b</sup>

Adolphus, in his History of the Reign of George III., gives the following account of Charles Yorke's appointment and his death, without hinting at the current rumour:—

"The Seal was taken from Lord Camden and offered to Mr. Yorke, who had twice filled the office of Attorney-General with the greatest reputation for talents and integrity. The unsettled state of parties, and the gloomy complexion of affairs, naturally occasioned him to feel considerable reluctance at undertaking the office at that particular time. Nothing, probably, would have overcome his repugnance but the earnest manner in which his acceptance of the Great Seal was pressed upon him by the King himself as most essential to his service. Thus urged, Mr. Yorke determined to obey the commands of his Sovereign without reversionary conditions or stipulations. He was immediately raised to the peerage by the title of Baron Morden, of Morden, in Cambridgeshire; an honour he did not live to possess, as the patent was not completed before his death, which occurred three days after he received the Great Seal."<sup>c</sup>

But an express, and seemingly authentic, contradiction is given to the imputation of suicide by Craddock, a writer of credit, who, in his Memoirs, twice touches upon the subject:

<sup>b</sup> Considering the statement which had been made by Junius, and often repeated before this entry was written, we must be surprised that the circumstances of the death of Charles Yorke are not here more specifically stated. The writer's great object seems to have been to justify himself from the charge of having acted harshly to his unhappy brother. From lapse of memory, at the distance of near a whole year, he makes a mistake as to the day on which the King's levee was held; and, unless he had been misled by the incoherent narration delivered to him on Tuesday the 16th, he must have confounded materially his recollection of what hap-

pened on that and the following day. He represents his brother as either wilfully concealing facts, or being in a state of great distraction. I, therefore, cannot consider the Diary as of much weight in this painful controversy.

<sup>c</sup> Vol. i. 397. I must observe, however, that the silence of this historian, notwithstanding his good information and general accuracy, is less to be relied upon in the present instance, as he confesses that he suppressed what would be hurtful to the feelings of George III.—such as his Majesty's first attack of Insanity in 1765, which rendered the Regency Bill necessary. (Vol. i. 175.)

‘Mr. Sheldon,’ says he, “and his brother, were very rich men. Mr. S. married a relative of Mr. Charles Yorke, for a short time Lord Chancellor. Mr. Sheldon’s eldest son, through the Reverend Mr. Sparrow, of Walthamstow, became intimate with me, and was frequently at my house in summer. After the dreadful death of Mr. Yorke, the newspapers more than hinted that he committed suicide, and this was mentioned at my table, not knowing Mr. Sheldon was his nephew. Mr. Sheldon replied to the gentleman, ‘I pledge you my honour, my relative did not cut his throat.’ When Mr. Sheldon was out of the room, the gentleman regretted that he had mentioned the circumstance, but said he was utterly astonished at Mr. Sheldon’s denial. A gentleman then said, ‘I believe I know the truth from Mr. Sheldon. After Mr. Charles Yorke left his Majesty, and had accepted the Seals, it was said Lord Rockingham and others expressed much resentment. Lord Rockingham, for himself, expressly denied that he said any thing. However, Mr. Charles Yorke went privately to his sideboard, and took out a bottle of some very strong liquor. He was subject to a severe stomach complaint. This liquor brought on violent sickness, and in the paroxysm he broke a blood-vessel. After his death he was laid out, and the neck exposed to several persons, purposely permitted to view the corpse.’ This, I rather think, was the whole truth.”<sup>d</sup>

In a subsequent volume of his work, Craddock incidentally mentions “Mr. Yorke, who was afterwards, for a short time, Lord Chancellor:” and then he adds, “Having just alluded to the short life of the much-regretted Mr. Yorke after he was Lord Chancellor, I think it incumbent upon me to contradict the reported manner of his death, on the authority of one of his own family. He certainly was much agitated, after some hasty reproaches that he received on his return from having accepted the Seals, and he hastily took some strong liquor which was accidentally placed near the sideboard, and, by its occasioning great sickness, he broke a blood-vessel. The friend from whom I received the account assured me that he was present when the corpse was left openly in the chamber, that the attendants might gratify their curiosity, and see that his death could not be truly attributed to the direct means which had been so publicly and so confidently asserted.”<sup>e</sup>

I must likewise observe, that in an able article on the “Life of the Honourable Charles Yorke,” published in the “Law Ma-

gazine," so recently as the year 1843, the imputation is strenuously negatived, and this account is given of the event :— "Stung with the coldness and reproaches of his party after his acceptance of the Great Seal, Mr. Yorke returned home in a state of extreme agitation, and drank freely of some spirits, which, in conjunction with the nervous excitement, occasioned a violent paroxysm of sickness. In the throes of his illness, he ruptured a blood-vessel."

The charitable conclusion may possibly be drawn that the unfortunate Charles Yorke died from the accidental bursting of a blood-vessel, and that he is only to be blamed for a want of due firmness in not adhering to his engagements.

Even those who think that the testimony that he died by his own hand preponderates, must pity while they condemn him, and must still regard his memory with respect. Heaven forbid that such an act should be justified or palliated ; but there is not in the annals of human error an instance of a violation of religious duty so mixed up with virtuous feelings, and so demonstrating the excess of noble qualities. His acceptance of the Great Seal was wrong, but did not proceed from sordid motives. He made no condition for pecuniary grants to himself, which, if he had asked them, would have been showered down upon him. Nor does he at all seem to have been seduced by the love of power or splendour. He quitted a strong and united party to join one that was crumbling to pieces ; and if he had survived he could hardly have expected long to enjoy his elevation. He was overpowered by royal blandishments, and a momentary mistake as to the duty of a good subject. But he was soon struck with deep remorse, and his love for honest fame was demonstrated by his being unable to survive the loss of it. Many holders of the Great Seal, to obtain it, have disregarded engagements as binding, and violated principles as sacred ; yet, having clutched it, have suppressed the stings of conscience, and revelled in the fruits of inconsistency and treachery. Such men, who live without honour, and die a natural death without repentance, may have more to answer for in the sight of a just and merciful God, than he who, in the anguish of self-reproach, sought by a voluntary death to make atonement for the offence which he had committed.

All must join in admiring, without qualification, nearly every portion of his prior career. The brilliant promise which he gave of proficiency in early youth, he fully realised in manhood. He is not of the same calibre as Lord Bacon,

Sir Thomas More, and Lord Somers; but for the combination of professional knowledge and liberal accomplishments, he is at the very top of the second class of English lawyers. As an advocate, as a law officer of the Crown, and as a member of the House of Commons, he was almost equal to his father; and if he had enjoyed the good fortune to preside for twenty years on the bench, as his father did, I make no doubt that he would have rivalled his father's fame as a magistrate. In literature he was infinitely beyond him. I have already shown that he was a very considerable master of English prose composition,—having a style easy, elegant, and forcible, and with much more of genuine Anglicism than we generally find at a time when the public taste was corrupted by the inversions and the measured sententiousness of Johnson.

Dabbling in poetry, his efforts, perhaps, deserve only to be denominated “*Vers de Société*,”—but I do not know any succeeding (as there were few preceding) Chancellors who could have equalled the following specimens of them:—

“*Lines (in imitation of Pope) supposed to be addressed by a Lady deceased to the Author of a Poem in honour of her Memory.*

“Strip'd to the naked soul, escap'd from clay,  
From doobts unfetter'd and dissolv'd in day,  
Unwarm'd by vanity, unreach'd by strife,  
And all my hopes and fears thrown off with life,  
Why am I charm'd with friendship's fond essays,  
And, though unbodied, conscious of thy praise?  
Has pride a portion in the parted soul?  
Does passion still the formless mind control?  
Can gratitude outpant the silent breath,  
Or a friend's sorrows pierce the gloom of death?  
No! 'tis a spirit's nobler taste of bliss  
That feels the worth it left, in proofs like this.  
Thou liv'st to crown departed friends with fame,  
And, dying late, shalt all thou gav'st reclaim.”

“*To a Lady, with a present of Pope's Works.*

“The lover oft, to please some faithless dame,  
With vulgar presents feeds the dying flame;  
Then adds a verse, of slighted vows complains,  
While she the giver and the gift disdain.  
These strains no idle suit to thee commend,  
On whom gay loves with chaste desires attend;  
Sure had he living view'd thy tender youth,  
The blush of honour and the grace of truth,  
Ne'er with Belinda's charms his song had glow'd.  
But from thy form the lov'd idea flow'd:  
His wanton satire ne'er the sex had scorn'd  
For thee, by virtue and the muse adorn'd.”

*" Stanzas in the manner of Waller, occasioned by a Receipt to make Ink given to the Author by a Lady.*

- " In earliest times ere man had learn'd  
Hia sense in writing to impart,  
With inward anguish oft he burn'd,  
His friend unconscious of the smart.
- " Alone he pin'd in thickest shade,  
Near murmuring waters sooth'd his grief,  
Of senseless rocks companions made,  
And from their echoes sought relief.
- " Cadmus, 'tis said, did first reveal  
How letters should the mind express,  
And taught to grave with pointed steel  
On waxen tables its distress.
- " Soon was the feeble waxen trace  
Supplied by ink's unfading spot,  
Which to remotest climes conveys  
In clearest marks the secret thought.
- " Blest be his chemic hand that gave  
The world to know so great a good ;  
Hard that his name it should not save  
Who first pour'd forth the sable flood.
- " 'Tis this consigns to endless praise  
The hero's valour, statesman's art,  
Historic truth and fabling lays,  
The maiden's eyes, the lover's heart.
- " This kindly spares the modest tongue  
To speak aloud the pleasing pain ;  
Aided by this, in tuneful scoug,  
Fond vows the virgin paper stain." f

Charles Yorke was a member of the Royal Society, but, though distinguished in literature, I do not believe that he ever showed any taste for science. He always continued to delight in the society of men of letters, and was desirous of serving them. Hurd was indebted to him for promotion, as well as Warburton. He did not waste his time in field sports and frivolous amusements. All the leisure he could spare from professional and political occupations he allotted to intellectual pursuits and enjoyments.

I find only one jest of his recorded, and it does not make us regret that he did not oftener aim at humour. After being returned member for the University, he went round to

f See also " Ode to the Honourable Miss Cooksey's Life of Lord Hardwicke, 35 Yorke, on her copying a Portrait of Dante ;" Annual Register, 1770.



pay his respects to the members of the senate. Among them was an old "fellow" proverbial for having the largest and most hideous face that ever was seen. Mr. Yorke thus addressed him:—"Sir, I have great reason to be thankful to my friends in general, but confess myself under particular obligation to you for the very *remarkable countenance* you have shown me on this occasion."

Although Henry Fox spitefully says, "Yorke was very ugly while he lived,"—according to his portraits, the likeness of him on his tomb, and a figure of him in wax, still preserved, his countenance was intellectual and pleasing. Though his features were plain, his smile is said to have been soft and captivating; and his eye and mouth, in particular, indicated to a physiognomist his high mental qualities. He must have had much goodness of heart, for a numerous body of friends were very warmly attached to him. His untimely end caused a tremendous sensation in the metropolis, and political opponents joined in deeply deploring it. George Hardinge says,—“I saw Lord Camden just after Mr. Yorke's death, and I never in my life observed him so melancholy as that event made him. All their competitions and jealousies were at an end, and he lamented him in tears, and spoke of him with undissembled esteem.”<sup>s</sup>

I should have mentioned that his remains were interred in the parish church at Wimpole, where there is erected a splendid monument to him by Scheemaker, bearing an inscription, which, after stating his birth and earlier promotions, thus proceeds:—

“The Great Seal was delivered to him, January 17th, 1770, at a juncture very unfavourable for his accepting it. He died, after a short illness, on the 20th of that month. He possessed uncommon Endowments, natural and acquired; was a complete Master of his own Profession, as practised in both parts of the United Kingdom; had an extensive knowledge of Polite Literature, and understood with accuracy the Modern as well as Antient Languages. His Style in Composition and Speaking was nervous, elegant, and clear, and his Invention and Learning often furnished him with arguments which had escaped the Ingenuity of others. He was heard with attention and conviction, both in the Senate and at the Bar. His Mind was of a humane and liberal turn; and both in his public and private Station, he always acted upon Principles of Virtue and Honour. With these Talents and Qualities, we justly lament that the Public was deprived of his Abilities at a juncture when they might have been of the greatest use, and the Crown of his Service in a Station to which he had been long destined, and which he would have eminently adorned.

“This Monument is erected to his Memory by his most affectionate and afflicted Brother, PHILIP Earl of HARDWICKE.”

Considering that these are the sentiments of one who had

<sup>s</sup> MS. Life of Lord Camden.

so loved him from infancy, and so deeply lamented the close of his career, they are most solemn and affecting.

Charles Yorke, from his life and from his death, will always be interesting in English history. "His moral and intellectual worth, literary merits, legal renown, and, more than all these, his gentle goodness and attaching qualities of heart, shed a calm and placid light, even at this interval of time, over his memory, like the pure ray of some distant star, which the mists, raised by earth, have for a time obscured from our view."<sup>h</sup>

The Great Seal not having been put to the patent for creating him Baron Morden before he expired, this peerage only reminds his descendants of the additional honours they might have acquired. His eldest son, soon after coming of age, represented the county of Cambridge in parliament, till the death of his uncle, the second Earl of Hardwicke, in 1790, when he succeeded to all the honours and estates of the family. On his death without male issue in 1834, they devolved on the present Earl of Hardwicke, whose father, the late gallant and good-humoured Vice-Admiral Sir Joseph Yorke, M.P., was the youngest son by the second marriage of Lord Chancellor Charles Yorke.<sup>i</sup>

<sup>h</sup> Law Mag. No. lxi. 95.

<sup>i</sup> Ante, vol. vi. p. 304; Grandeur of the Law, 66.

There is a laboured panegyric on the subject of this memoir, which, coming from a very eminent lawyer who had frequently heard him plead at the bar, possesses sufficient interest to justify me in copying it in a note, although it be written in a turgid and almost bombastic style:—"That modern constellation, of English jurisprudence, that elegant and accomplished ornament of Westminster Hall in the present century (1792), the Honourable Charles Yorke, Esq.; whose ordinary speeches as an advocate were profound lectures; whose digressions, from the exuberance of the heat juridical knowledge, were illuminations; whose energies were oracles; whose constancy of mind was won into the pinnacle of our Eoglian forum at an inauspicious mement; whose exquisiteness of sensibility at almost the next moment from the impressions of imputed error stormed the fort even of his cultivated reason, and so made elevation and extinction contemporaneous! and whose prematureness of fate, notwithstanding the great contributions from

the manly energies of a Northington and the vast splendour of a Camden, and notwithstanding also the accessions from the two rival luminaries which have more latterly adorned our equitable hemisphere [Thurlow and Wedderburn], causes an almost insupportable interstice in the science of English equity. To have been selected as the friend of such a man was nearly *instar omnium* to an English lawyer. Even to be old enough to have received the impressions of Mr. Charles Yorke's character as a lawyer from the frequency of hearing his chaste, delicate, and erudite expressions in the discharge of professional duty, is some source of mental gratification."—HARGRAVE's *Preface to Hale*, p. clxxxli.

This effort of an industrious black-letter conveyancer at fine writing was thus justly satirised in "The Pursuits of Literature:"—

"With HARGRAVE to the Peers approach  
with awe,  
And sense and grammar seek in Yorke  
and law."

There is a disparaging character of Charles Yorke by Horace Walpole, to which, from the author's prejudices against all the Yorkes,

little weight can be given:—"Yorke's speeches in parliament had for some time, though not so soon as they ought, fallen into disesteem. At the bar his practice had declined, from a habit of gluttony and intemperance, as I have mentioned. Yet as a lawyer his opinion had been in so high repute, that he was reported to have received 100,000 guineas in fees. In truth his chief practice had flourished while his father was not only Lord Chancellor, but

a very powerful minister. Yorke's parts were by no means shining. His manner was precise, yet diffuse; and his matter more sententious than instructive. His conduct was timid, irresolute, often influenced by his profession, oftener by interest. He sacrificed his character to his ambition of the Great Seal, and his life to his repentance of having attained it."—*Memo. Geo. III.*, iv. 63.

## CHAPTER CLII.

LIFE OF LORD CHANCELLOR BATHURST FROM HIS BIRTH TILL HE WAS  
MADE A PUISNE JUDGE.

COMPENSATION is sometimes made for a scanty share of natural abilities by great success in the world. Thus, justice is done to the individual, while the pride of rewarded genius is tempered, and a balm is applied to the wounded self-complacency of those who have been unfortunate. For such wise purposes, Henry Bathurst—little qualified for any intellectual pursuit—became a Member of the House of Commons, one of the twelve Judges, a Commissioner of the Great Seal, Lord Chancellor, Lord President of the Council, and an Earl,—and when he had been raised to the first magistracy in the kingdom, he retained that situation for a much longer period than More, Bacon, Clarendon, or Somers. To his credit be it remembered, that he reached such a height without a dishonourable action. The portion of plain common sense bestowed upon him was unmixed with any vicious propensity; and his career, if it was without brilliancy, was without reproach. The proximate causes of his success may be considered harmless manners, sober habits, family interest, and the mediocrity of his parts, which, preventing envy and jealousy, made him to be regarded with favour by men in power, and to be preferred to others who might have given trouble by entertaining an independent opinion, and who might from dependants have risen into rivals. It should likewise be borne in mind that, as far as the public could observe, he performed almost decently the duties of the offices in which to the surprise of mankind he was placed,—affording a memorable example of what may be accomplished by dull discretion.<sup>k</sup>

<sup>k</sup> "Have you not observed," writes Swift to Bolingbroke, "that there is a lower kind of discretion and regularity, which seldom fails of raising men to the highest stations in the court, the church, and the law? Did you never observe one of your clerks cutting his paper with a *blunt ivory knife*? Did

you ever know the knife to fail going the true way? Whereas if he had used a *razor* or a *penknife*, he had odds against himself of spoiling a whole sheet. I have twenty times compared the notion of that *ivory implement* to those talents that thrive best at court."

The subject of this memoir was the second son of Allen, Lord Bathurst, who acted a distinguished part in public life during four reigns, and is celebrated in prosaic verses by Pope, and in poetical prose by Burke. The family are said to have come from Germany, and to have resided at "Batters," near Luneburg, from which originally they took their name. On coming to England they had a grant of a tract of forest land in Sussex, which was at first called "Batters Hurst," and then "Bathurst." Their castle here was demolished, and they lost almost the whole of their property during the wars of the Roses, so that for some generations they fell into obscurity. But they were revived by commerce; and Sir Benjamin Bathurst, their chief in the reign of William III., rose to be Governor of the East India Company, and treasurer of the household to Princess Anne of Denmark.

Allen, the long-lived,—his son,—having studied at Trinity College, Cambridge, under the then Master, Dean Bathurst, his uncle, was returned to parliament, when hardly of age, for the borough of Cirencester, and became a partisan of the Tories. As a reward for his services, he was raised to the peerage,—being one of the batch of twelve, made in 1711, to support the Peace of Utrecht,—who, when they were introduced into the House of Lords, were asked, in legal phraseology addressed to a jury, "if they would speak by their foreman?" He continued an active debater in that House above half a century,—almost invariably in opposition to the successive Whig administrations formed under the first two princes of the House of Brunswick. But he lived to see better times, when Tory ascendancy was to be restored. In 1757 he was appointed treasurer to George III., then Prince of Wales; and when that Sovereign came to the throne, although the venerable Tory Peer declined office on account of his infirmities, he had a pension granted to him of 2000*l.* a year, and he was in due time advanced to an Earldom. He was spared to behold his son, well-stricken in years, sitting on the woolsack as Lord High Chancellor; being the only individual, except the father of Sir Thomas More, on whom such a felicity was ever conferred. But he was less distinguished as a statesman than as the intimate associate of Swift, Prior, Rowe, Congreve, Arbuthnot, Gay, Addison, and Pope, —still keeping up an intimate acquaintance with the most distinguished of the succeeding generation of men of letters.

We have an interesting relation of the manner in which he became acquainted with the author of *Tristram Shandy*:—"He came up to me one day," says that lively writer, "as I was at the Prince of Wales's court:—'I want to know you, Mr. Sterne, but it is fit that you should know also who it is that wishes that pleasure. You have heard of an old Lord Bathurst, of whom your Popes and Swifts have sung and spoken so much. I have lived my life with geniuses of that cast, but have survived them; and, despairing ever to find their equals, it is some years since I have cleared my accounts and shut up my books, with thought of never opening them again. But you have kindled a desire in me of opening them once more before I die, which now I do; so go home and dine with me.' This nobleman, I say, is a prodigy; for at eighty-five he has all the wit and promptitude of a man of thirty; a disposition to be pleased, and a power to please others, beyond whatever I knew,—added to which, a man of learning, courtesy, and feeling."

The aged Peer had indeed the most elegant tastes, and the most jovial manners,—offering a striking contrast to Henry, who was rather abstemious and sullen—insomuch that when, after supper, the son had retired, the father would rub his hands, and say to the company, "Now that *the old gentleman* is gone to bed, let us be merry, and enjoy ourselves."

To him was inscribed Pope's epistle "On the Use of Riches," in which he is thus addressed:—

"The sense to value riches, with the art  
To enjoy them and the virtue to impart  
Not meanly, not ambitiously pursued,  
Not sunk by sloth, nor rais'd by servitude;  
To balance fortune by a just expense,  
Join with economy magnificence;  
With splendour charity, with plenty health;  
O, teach us, BATHURST, yet unspoil'd by wealth!  
That secret rare between the extremes to move  
Of mad good-nature and of mean self-love."

But a more striking tribute to his memory is to be found in the famous speech delivered, a few months before his death, by Burke, on Reconciliation with America.<sup>m</sup> The orator, with the imagination of a true poet, having drawn the attention of the House to the rapid growth of the colonies, and the respect

<sup>m</sup> This speech was delivered on the 22nd of March, 1775, and he died the 16th of September following.

with which, on account of their wealth and population, they ought to be treated, thus proceeded:—

“ Mr. Speaker, I cannot prevail upon myself to hurry over this great consideration. It is good for us to be here. We stand where we have a vast view of what is and what is past. Clouds, indeed, and darkness rest upon the future. Let us, however, before we descend from this noble eminence, reflect that this growth of our national prosperity has happened within the short period of the life of man. It has happened within sixty-eight years. There are those alive whose memory might touch the two extremities. For instance, my Lord Bathurst might remember all the stages of the progress. He was in 1704 of an age at least to be made to comprehend such things. He was then old enough *acta parentum jam legere, et quæ sit poterit cognoscere virtus*. Suppose, Sir, that the angel of this auspicious youth, foreseeing the many virtues which made him one of the most amiable, as he is one of the most fortunate men of his age, had opened to him in vision that when in the fourth generation, the third prince of the House of Brunswick had sat twelve years on the throne of that nation which (by the happy issue of moderate and leading councils) was to be made Great Britain, he should see his son, Lord Chancellor of England, turn back the current of hereditary dignity to its fountain, and raise him to an higher rank of peerage, whilst he enriched the family with a new one—If, amidst these bright and happy scenes of domestic honour and prosperity, that angel should have drawn up the curtain and unfolded the rising glories of his country, and, whilst he was gazing with admiration on the then commercial grandeur of England, the genius should point out to him a little speck, scarce visible in the mass of the national interest, a small seminal principle, rather than a formed body, and should tell him—‘ Young man, there is America—which at this day serves for little more than to amuse you with stories of savage men and uncouth manners ; yet shall, before you taste of death, show itself equal to the whole of that commerce which now attracts the envy of the world. Whatever England has been growing to by a progressive increase of improvement, brought in by varieties of people, by succession of civilising conquests and civilising settlements, in a series of seventeen hundred years, you shall see as much added to her by America in the course of a single life ! ’ If this state of his country had been foretold to him, would it not require all the sanguine credulity of youth, and all the fervid glow of enthusiasm, to make him believe it ? Fortunate man, he has lived to see it ! Fortunate, indeed, if he lives to see nothing that shall vary the prospect, and cloud the setting of his day ! ”

But, however reluctantly, in obedience to my duty I must now attend to a much less interesting character, and explain in what manner the most improbable part of the vision was realised. “ The auspicious youth ” was married to Catherine, daughter and heiress of Sir Peter Apsley, by whom he

had four sons and five daughters." For Henry, the second son, I must bespeak, during a short space, the patience of the reader, although, as he had no striking qualities, good or bad, and as he met with no remarkable vicissitudes of fortune, I cannot expect to excite in his favour the sympathy of any class of readers.

He was born on the 2nd of May, in the year 1714. I know not, and I must own I have not taken much pains to ascertain, at what school he was educated. He probably passed through it with little flogging and little distinction. At the usual age he went to Christ Church, Oxford,—where nothing more is known of him than that he took his degree of B.A. in 1733.

Being at this time a younger brother, he was destined to the bar, and he was entered of Lincoln's Inn. The discipline there had become what it has since continued: moots and readings having fallen into desuetude, and no other means of instruction substituted for them, the only qualification for being licensed as an advocate was—eating a certain number of dinners in the Hall.

This *curriculum* being completed by Mr. Bathurst, he was called to the bar in the year 1736. He rode the Oxford circuit, and sat in the Court of King's Bench; but, although he was very regular in his habits, he seems to have had little business beyond a few briefs given him by favour.

While still in his twenty-second year he was returned to serve for the family borough of Cirencester. It is said that a lawyer ought not to enter parliament till he has fair pretensions to be made Solicitor-General; but I do not believe that young Bathurst's professional progress was at all impeded by his political pursuits, and without being in parliament he probably would never even have had a silk gown. He sat in the House of Commons for Cirencester, and for the county of Glou-

<sup>a</sup> He was, or pretended to be, rather alarmed by the fecundity of his wife. In a letter to Swift, alluding to the Dean's scheme for relieving the miseries of the Irish by fattening their children for the table, he says,—“I did immediately propose it to Lady Bathurst as your advice,—particularly for her last boy, which was born the plumpest and finest thing that could be seen; but she fell into a passion, and bid me send you word that she would not follow up your direction, but that she would breed him to be a parson, and

he should live upon the fat of the land; or a lawyer, and then instead of being eat himself he should devour others. You know women in a passion never mind what they say; but as she is a very reasonable woman, I have almost brought her over now to your opinion, and have convinced her that, as matters stood, we could not possibly maintain all the nine: she does begin to think it reasonable that the youngest should raise fortunes for the eldest.”



cester, from 1736 to 1751, a period of fifteen years—during the whole of which he is hardly ever mentioned as having taken part in debate.

In 1741 he is said to have opposed the Bill for forcibly manning the Navy. His short speech is reported, and I suspect invigorated, by Dr. Johnson, for it has the true Johnsonian flow :—

“Sir, that this law will easily admit, in the execution of it, such abuses as will overbalance the benefits, may readily be proved; and it will not be consistent with that regard to the public, expected from us by those whom we represent, to enact a law which may probably become an instrument of oppression. The servant by whom I am now attended may be termed, according to the language of this bill, a sea-faring man, having been once in the West Indies; and he may, therefore, be forced from my service and dragged into a ship, by the authority of a justice of the peace, perhaps of some abandoned jobber, dignified with the commission only to influence elections, and awe those whom excises and riot acts cannot subdue. I think it, Sir, not improper to declare, that I would by force oppose the execution of a law like this; that I would bar my doors and defend them; that I would call my neighbours to my assistance; and treat those who should attempt to enter, without my consent, as thieves, ruffians, and murderers.”<sup>o</sup>

Though Mr. Bathurst spoke rarely, he was a constant attender in the House, and his vote might always be reckoned upon by the opponents of Sir Robert Walpole. He joined the Leicester House party, and in 1745 was made Solicitor-General to the Prince of Wales, on which occasion the rank of King's counsel was conferred upon him, and he put on a silk gown.

In 1749 he opposed the grant of an indemnity to the citizens of Glasgow for the loss they had sustained in the late rebellion, contending that they ought to have made a stouter resistance to the rebels, and that such indemnities would lessen the disposition to oppose foreign or domestic enemies—and pointing out the burning of Penzance by the Spaniards in the reign of Elizabeth, and of Teignmouth, with all the ships in its harbour, by the French in the reign of William III., when no compensation from parliament was made to the sufferers, or asked by them.<sup>p</sup> The same session he spoke upon his favourite subject, the manning of the navy, condemning

<sup>o</sup> 12 Parl. Hist. 93. He is represented on two other occasions respecting this bill. (Ibid. 105, 120.)  
<sup>p</sup> 14 Parl. Hist. 527

the plan brought forward by Ministers for that purpose.<sup>9</sup> In 1750 he delivered a long oration about the demolition of the port of Dunkirk, a favourite topic for the assailants of successive governments for half a century.<sup>r</sup>

Meanwhile he continued steadily to attend the courts in Westminster Hall, and to go the Oxford circuit, though with little encouragement.

While at the bar, he was engaged in one *cause célèbre*,—the trial, at Oxford, of Miss Blandy for the murder of her father,—which he had to conduct for the Crown as the leader of the circuit. This is the most horrid parricide to be found in our criminal annals, and I hope it will remain for many generations without a parallel. Mr. Bathurst's address to the jury has been much praised for its eloquence, and, as it certainly contains proof of good feeling, if not of high talent and refined taste, I have pleasure in copying the best passages of it. After making some observations upon the prosecution being carried on by order of the King, and upon the immense concourse of people assembled, he thus proceeded:—

A.D. 1752.

“Miss Blandy, the prisoner at the bar, a gentlewoman by birth and education, stands indicted for no less a crime than that of murder; and not only for murder, but for the murder of her own father, and for the murder of a father passionately fond of her, undertaken with the utmost deliberation; carried on with an unvaried steadiness of purpose, and at last accomplished by a frequent repetition of the baneful dose administered with her own hand. A crime so shocking in its own nature, and so aggravated in all its circumstances, as will (if she be proved to be guilty of it) justly render her infamous to the latest posterity, and make our children's children, when they read the horrid tale of this day, blush to think that such a creature ever existed in a human form. I need not, gentlemen, point out to you the heinousness of the crime of murder. You have but to consult your own breasts, and you will know it. Has a murder been committed? Who has ever beheld the ghastly corpse of the murdered innocent, weltering in its blood, and did not feel his own blood run slow and cold through all his veins? Has the murderer escaped? With what eagerness do we pursue! With what zeal do we apprehend! With what joy do we bring to justice! And when the dreadful sentence of death is pronounced upon him, every body hears it with satisfaction, and acknowledges the justice of the Divine denunciation that ‘*Who sheddeth man's blood, by man shall his blood be shed.*’ If this, then, is the case of any common murderer, what will be thought of one who has murdered her own father? who has de-

<sup>9</sup> 14 Parl. Hist. 553, 557.

<sup>r</sup> Ibid. 698.

signedly done the greatest of all human injuries to him from whom she received the first and greatest of all human benefits? who has wickedly taken away his life to whom she stands indebted for life? who has deliberately destroyed, in his old age, him by whose care and tenderness she was protected in her helpless infancy? who has impiously shut her ears against the loud voice of nature and of God, which bid her 'honour her father,' and instead of honouring him has murdered him?—In shortly opening the case, that you may the better understand the evidence, although I shall rather extenuate than aggravate, I have a story to tell which I trust will shock the ears of all who hear me. Mr. Francis Blandy, the unfortunate deceased, was an attorney-at-law, who lived at Henley, in this county. A man of character and reputation, he had one only child,—a daughter,—the darling of his soul, the comfort of his age. He took the utmost care of her education, and had the satisfaction to see his care was not ill bestowed, for she was genteel, agreeable, sprightly, sensible. His whole thoughts were bent to settle her advantageously in the world. In order to do that, he made use of a pious fraud (if I may be allowed the expression), pretending he could give her 10,000*l.* for her fortune. This he did in hopes that some of the neighbouring gentlemen would pay their addresses to her; for out of regard to him she was, from her earliest youth, received into the best company; and her own behaviour made her afterwards acceptable to them. But how short-sighted is human prudence! What was intended for her promotion, proved his death and her destruction." He then went on to state the following facts:—"Captain Cranstoun, an officer of the army, of a noble family in Scotland, but of a most profligate character, being stationed with a recruiting party at Henley,—for the sake of Miss Blandy's expected fortune, pretended to fall in love with her, and paid his addresses to her. She, being soon deeply attached to him, accepted his offer, but the father positively refused his consent. The lovers then resolved to poison him—and Captain Cranstoun sent Miss Blandy some Scotch pebbles with a powder to clean them, which was white arsenic. To prepare the world for what was to happen, according to the superstition of the times, they had pretended to have heard supernatural music in the house, and to have seen an apparition which foreboded his death. She first administered the poison to her father in his tea, and when it caused him exquisite anguish, and seemed to be consuming his entrails, she gave him a fresh dose of the poison in the shape of gruel, which she said would comfort and relieve him. As he was dying, the cause of his death was discovered and communicated to him. He exclaimed, 'Poor love-sick girl! what will not a woman do for the man she loves?' She said, 'Dear Sir, banish me where you will, do with me what you please, so that you do but forgive me.' He answered, 'I do forgive you, but you should, my dear, have considered that I was your own father; but, oh, that that villain, who hath eat of the best and drank of the best my house could afford, should take away my life and ruin my daughter!' She then ran for the paper containing the powder, and threw it into the fire, thinking it was destroyed; but it remained unconsumed, and pro-

duced her conviction. How evidently the hand of Providence has interposed to bring her to this day's trial, that she may suffer the consequence! For what but the hand of Providence could have preserved the paper thrown by her into the fire, and could have snatched it unburnt from the devouring flame? Good God! how wonderful are all thy ways! and how miraculously hast thou preserved this paper, to be this day produced in evidence against the prisoner, in order that she may undergo the punishment due to her crime, and be a dreadful example to all others who may be tempted in like manner to offend thy Divine Majesty!"

Some witnesses being called for the defence, Mr. Bathurst replied, and thus concluded:—

"Gentlemen, you are sworn to give a true verdict according to the evidence laid before you. If upon that evidence she appears to be innocent, in God's name let her be acquitted. But if upon that evidence she appears to be guilty, I am sure you will do justice to the public and acquit your own consciences."

There was a verdict of *guilty* on the clearest proof of premeditation and design; but (to show the worthlessness of the dying declarations of criminals, and the absurdity of the practice of trying to induce them to confess) she went out of the world with a solemn declaration, which she signed and repeated at the gallows, that she had no intention of injuring her father, and that she thought the powder would make him love her and give his consent to her union with Captain Cranstoun.\*

Mr. Bathurst continued leagued in politics with those who  
 Jan. 17, placed all their hopes of preferment on the accession  
 1751. of a new Sovereign. At the commencement of the session of 1751 he opposed the address, and, to recommend himself to the Prince, levelled several sarcasms at the King—sneering at the courtly language which the House was called upon to adopt:—

"We must not," said he, "express our acknowledgments to his Majesty without calling them our *warmest* acknowledgments; we must not talk of his Majesty's endeavours, without calling them his *unwearied* endeavours. Thus I could go on, Sir, with my remarks through the whole of this address; and all this without knowing any thing of the facts we thus so highly extol. How a minister might receive such high-flown compliments without knowledge, or how this House may think proper to express itself upon the occasion, I do not know; but I should be ashamed to express myself in such a manner to my Sovereign; nay,

I should be afraid lest he should order me out of his presence for attempting to put upon him such gross flattery.”†

Frédéric soon after dying suddenly, Mr. Bathurst went over, with a number of his party, to the Court, and in consequence he was, in 1754, made by Lord Hardwicke a puisne Judge of the Court of Common Pleas.

## CHAPTER CLIII.

CONTINUATION OF THE LIFE OF LORD BATHURST TILL HE RESIGNED THE GREAT SEAL AND WAS MADE PRESIDENT OF THE COUNCIL.

By reading, attendance in Court, and going the circuits, Mr. Justice Bathurst had picked up a little law without much practice: he had industriously made a sort of A.D. 1754. Digest of the rules of evidence and the points generally arising at the trial of actions; he was quiet and bland in his manners, and he possessed a great share of discretion, which enabled him on the bench to surmount difficulties, and to keep out of scrapes. With these qualifications he made a very tolerable puisne.\* When sitting alone, he ruled points of law as rarely as possible, leaving them mixed up with facts to the jury; and sitting in banc, he agreed with the Chief Justice and his brethren, or (if the Court was divided) with the Judge who was supposed to be the soundest lawyer.† Notwithstanding his Tory education and his attachment to the Government, he concurred in the judgment of Lord Camden for the liberation of Wilkes, and against general warrants. In a case in which it was held that a bond in consideration of past cohabitation is good in law, he pleased the sanctimonious by enriching his judgment with quotations from the books of Exodus and Deuteronomy, to prove that “wherever it appears that the man was the seducer, a pro-

\* 14 Parl. Hist. 805.

† This was afterwards enlarged by Mr. Justice Buller, and published under the name of “Buller’s Nisi Prius.”

\* Walter Scott used to tell a story in point. The heir apparent of a considerable family in Scotland having been, though almost fatuous,

called to the bar, and there being some talk in the servants’ hall about the profession of an advocate, an old butler exclaimed,—“It canna’ be a very kittle tred, for our young laird is ane.”

† See Wilson’s Common Pleas Reports.

vision for the woman shall be upheld."—The murmurs against his appointment as a political job died away, and there was a still weaker Judge made after him to keep him in countenance."

But although people ceased to wonder that he had been put upon the bench as a puisne Judge, no one ever dreamed of his going higher.—A puisne Judge he did remain for fifteen long years, when, according to our modern system, he would have been entitled to retire on a pension. But nothing can be more fantastical than the distribution of prizes in the lottery of legal promotion.

The triumph at Court on the acceptance of the office of Chancellor by Charles Yorke, was turned into deep A.D. 1770. dismay by his sudden death. The Great Seal was earnestly pressed upon Sir Eardley Wilmot, Chief Justice of the Common Pleas, but he resolutely refused to accept it, partly from a dislike of politics, partly from disapprobation of the measures of the Government, and partly from considering how precarious must have been the tenure of his new office. A strong appeal was again made to Lord Mansfield, and he was implored, by consenting to be Chancellor, to rescue the King from his difficulties, and to restore vigour to the Government, so much weakened by the secession of the Marquis of Granby, the Duke of Manchester, Dunning, and all the liberals who had gone out with Lord Camden; but the wary Scot would not leave his seat in the King's Bench, which he so much adorned, and which he held for life. He advised that the Great Seal should be put into commission, and he consented to preside on the woolsack as Speaker of the House of Lords. This course was adopted.<sup>b</sup>

A strange selection was made of Commissioners, which could not have been by his advice,—unless, indeed, (as was

<sup>a</sup> Turner v. Vaughan, 2 Wils. 339.

<sup>a</sup> When Graham was made a Judge, Law, then at the Bar, said,—“He puts Rook on a pinnacle.” Rook till then had been considered very incompetent.

<sup>b</sup> The difficulty of disposing of the Great Seal at this juncture led to the resignation of the Duke of Grafton. After relating his fruitless negotiations, thus he addresses his son, Lord Euston:—“You will feel for me in this distressing dilemma: you will perceive that I had left nothing untried to bring the vessel to tolerable trim: and when you consider that, quitted by Lord Camden, and at

the same time by Lord Granby, I had no reliance in the Cabinet but on General Conway only, I know you will think that, under such circumstances, I could not proceed and be of service to the King and to the country; and recollect that the hopes of co-operation with Mr. Yorke to bring about an essential addition of right principle, credit, and support, vanished of course with himself. I laid before his Majesty directly my difficulties, and observed that they were such as compelled me to retire from my office, though it would be my full desire to give all assistance to his Majesty's Government.”—*Journal*.

suggested,) he wished them to be entirely under his own control,—three puisne Judges, of fair character, but very moderate abilities and learning, and almost entirely unacquainted with the practice of Courts of Equity:—Sir Sidney Stafford Smythe, from the Exchequer; Sir Richard Aston, from the King's Bench; and, last and least, the Honourable Henry Bathurst, from the Common Pleas.\* The profession stood aghast at this arrangement, and the anticipation of failure was exceeded by the reality.

The Court of Chancery had not been in such a state since Cromwell's time, when the bench there was occupied by MAJOR LISLE and COLONEL FIENNES. No one of the three Commissioners had any confidence in himself or in his colleagues. In the regular hearing of causes they got on tolerably well by a mutual agreement to hold their tongues, and to consult Lord Mansfield as to the framing of their decrees; but, on "Seal Days," when they were peppered by motions to be disposed of at the moment, they could not conceal their consternation. A single incompetent Judge sitting by himself may take advantage of the tone of the counsel addressing him, of the countenance of the by-standers, and of hints from the officers; but the difficulties of the three Lords Commissioners were multiplied by their numbers, and the conflicting devices which they adopted to conceal their ignorance.

In one easy case, which attracted much public notice, and in which they had the good luck to be unanimous, <sup>A.D. 1770—</sup>they gained a little éclat. The bill was filed by the <sup>1771.</sup> celebrated Macklin against some booksellers, who employed Mr. Gurney, the short-hand writer, for the fee of one guinea, to go to the playhouse and take down from the mouths of the actors the words of his farce, entitled "*Love à la Mode*," lately brought out upon the stage, but never printed. The copy thus obtained they were about to publish in the "Court Miscellany, or Gentleman and Lady's Magazine," and a motion

\* "January 23, 1770.  
"Sir Sidney Stafford Smythe, Knt.,  
Sir Richard Aston, Knt.,  
The Hon. Henry Bathurst,  
a Baron of the Exchequer,  
a Judge of the King's Bench,  
a Judge of the Common Pleas,

being by letters Patent, dated the 21<sup>st</sup> Jan<sup>y</sup>, 1770, appointed Commissioners for the Custody of the Great Seal of Great Britain, upon the 23<sup>d</sup> of the same month came into

the Court of Chancery at West<sup>r</sup> Hall, and in open Court took the oaths of allegiance and supremacy, and also the oath of office, the same being administered by the Deputy Clerk of the Crown,—Mr. Holford, the Senior Master in Chancery present, holding the book. Which being done, Mr. Attorney-General prayed that it might be recorded, which the Court ordered accordingly."—*Cr. Off. Min. B.*, No. 2, fol. 16.

was made for an injunction to prevent them from doing so. The defendants' counsel contended, that in such a case a Court of Equity ought not to interfere, but leave the plaintiff to his remedy at law, as he had lost all property in the piece by acting it, and he had not sustained, and he could not sustain, any damage, the representation on the stage being benefited rather than injured by additional publicity. But the Lords Commissioners, without hearing a reply from the counsel for the plaintiff, held that the acting was no publication to deprive him of his remedy, and Lord Commissioner Bathurst said—"The printing it before the author has printed it is doing him a great injury. Besides the advantage from the performance, he has another means of profit—and irremediable mischief is about to be done to his property. This is a strong case for an injunction." *Perpetual injunction ordered.*<sup>d</sup>

But the solemn judgments of the Lords Commissioners, although supposed to be sanctioned by the authority of Lord Mansfield, were not always approved of, and they and he were particularly censured for a reversal of the decree of the Master of the Rolls in the great case of *TOTHILL v. PITT*.<sup>e</sup> This suit arose out of the will made by Sir William Pynsent, in favour of Mr. Pitt, as a mark of the testator's sense of the patriotic services of "the Great Commoner," and involved the right to a considerable amount of personal property bequeathed to him along with the estate of Burton Pynsent. The case coming on at the Rolls before Sir Thomas Sewell, a very eminent Equity Judge, he decided in favour of Mr. Pitt—on the clear and well-established rule of law, that "where the words of a will give an express estate tail in a freehold, the same words applied to personalty will give the whole interest—to avoid a perpetuity which the law abhors." After this decree had been acquiesced in for six years, an appeal was brought against it before the present Lords Commissioners of the Great Seal. I am wholly at a loss to account for the reversal which they pronounced; for I utterly, and most seriously and unfeignedly, discard the notion which prevailed at the time, that they or their assessor must have been influenced by political enmity to the respondent. The reversal caused a burst of surprise, and he immediately appealed against it to the House of Lords. The Judges being summoned gave an unanimous opinion in favour of the now appellant, and, with the con-

<sup>d</sup> Ambler, 694; see *Murray v. Elliston*, 5 B. & A. 737; *Morris v. Kelly*, 1 J. & W. 656.

<sup>e</sup> Dickens, 431.



currence of Lord Mansfield himself, the reversal was reversed, and the original decree was affirmed.<sup>f</sup>

After the learned Trio had gone on for a twelvemonth, floundering and blundering, the public dissatisfaction was so loud that some change was considered necessary. What was the astonishment of Westminster Hall, and of the public, when it was announced that his Majesty had been pleased to deliver the Great Seal to the Honourable HENRY BATHURST, a Judge of the Common Pleas, as Lord Chancellor, and to raise him to the peerage, by the title of Baron Apsley of Apsley, in the county of Sussex!

It was thought vain again to solicit the acceptance of the Great Seal by any legal dignitary who had already acquired judicial reputation, and there were then objections to introducing into the House of Lords "the majestic sense of Thurlow, or the skilful eloquence of Wedderburn." Bathurst, from his birth and family connections, was very acceptable to the party in power; he was a man of inoffensive manners, and of undoubted honour and fidelity; and his insignificance was not disagreeable—being regarded as a guarantee that he would give no trouble in the Cabinet.

He was sworn in at a council at St. James's the first day of Hilary Term. Two days after, he led a grand procession from his house in Dean Street to Westminster Hall, attended by the great officers of state and many of the nobility, and he was duly installed in the Court of Chancery.<sup>g</sup>

His proper title in the peerage at this time was Lord Apsley, and so continued till the death of his father in 1775, when, his elder brother having previously died without issue, the earldom of Bathurst descended upon him; but I shall use

<sup>f</sup> Brown's Parliamentary Cases, vii. 455.

<sup>g</sup> "23d January, 1771.

"The Lords Commissioners for the custody of the Great Seal of Great Britain, having delivered the said Great Seal to the King at his palace of St. James's on Wednesday the 23d of January, 1771, his Majesty, about one o'clock the same day, delivered it to Henry Bathurst, Esq<sup>r</sup>, with the title of Lord Chancellor of Great Britain, who was thereupon, by his Majesty's command, sworn of the Privy Council, and likewise Lord High Chancellor of Great Britain, and took his place at the board accordingly. And on Friday the 25th of Jan<sup>y</sup>, he went in state from his house in Dean Street to West<sup>m</sup>. Hall, accompanied

by Earl Gower, President of the Council, Earl of Suffolk, Lord Privy Seal, Earl of Hillsborough, one of the principal Secretaries of State, Marquess of Carnarvon, the Earls of Litchfield, Marchmont, Poulett, Strafford, the Lords Bruce and Boaton, and Sir John Eardley Wilmot, K<sup>t</sup>; where, in their presence, he took the oaths of allegiance and supremacy, and the oath of Lord High Chancellor of Great Britain, the Master of the Rolls holding the book, and the Deputy Clerk of the Crown reading the said oaths. Which being done, the Solicitor-General moved that it might be recorded, and it was ordered accordingly."—*Minute Book*, No. 2, fol. 16.

the freedom to denominate him Lord Bathurst from the commencement of his Chancellorship.

Many thought that he must now entirely break down; but, on the contrary, he got on tolerably well. The Chancery galley was less unsteady than when *three* unskilful pilots were employed at the helm. There was entire confidence placed in the new Chancellor's integrity and earnest desire to do what was right; the Attorney and Solicitor-General who practised before him were desirous of supporting him, and he himself, placing just reliance on the liberality and honour of the Chancery bar, acted on the belief that there would be no gross attempt made to mislead him. In weighty cases he was in the habit of calling in the assistance of common-law judges, and being governed by their advice.

He likewise leaned constantly on Sir Thomas Sewell, the Master of the Rolls—never showing any arrogance or false pretension. In one important cause, having required the inferior Judge to sit as assessor, and heard his opinion, he said, with disarming candour—"I ought to apologise for keeping the matter so long before the Court; at first I differed in opinion with his Honour, but he hath now convinced me, and I entirely concede to his Honour's opinion, and am first to thank him for the great trouble he hath taken on the occasion."

Still the appointment was justly complained of as resting on political convenience, without regard to the interests of the suitors. As long as Lord Bathurst held the Great Seal, deep grumblings were uttered, and bitter sarcasms were levelled against him.

In all companies was repeated the saying of Sir Fletcher Norton, who, when he heard of Lord Commissioner Bathurst being declared Lord High Chancellor, exclaimed, "What the three could not do, is given to the most incompetent of the three!"

Sir Charles Hanbury Williams inserted the new Chancellor in the band of Tories who

"Were curs'd and stigmatis'd by power,  
And rais'd to be expos'd."

Stories were invented and circulated respecting the Chancellor, which showed the low estimation in which he was held. It was said that his Lordship, on Wilkes being elected Lord Mayor of London, had threatened, in the exercise of the royal prerogative, when the profligate patriot was presented for con-

firmation, to disallow the choice of the citizens,—till told that this would be Wilkes's reply: "I am fitter for my office than you are for yours, and I must call upon the King to choose another Lord Chancellor."—Again, when he got into a controversy with a soldier's widow, about a spot of ground at Hyde Park Corner, and, she having filed a bill against him, he gave her a sum of money to relinquish her claim, a witty barrister was represented to have observed, "Here is a suit by one old woman against another, and the Chancellor has been beaten in his own Court!"

There is a passage in Boswell's Life of Johnson, which shows still more strikingly the opinion of well-educated men upon this subject. The biographer having <sup>A.D. 1771—1778.</sup> mentioned the introduction of Sir Alexander Macdonald to the Lexicographer, in the year 1772, thus proceeds:—"Sir Alexander observed, that the Chancellors in England are chosen from views much inferior to the office, being chosen from temporary political views. JOHNSON: 'Why, Sir, in such a government as ours, no man is appointed to an office because he is the fittest for it, nor hardly in any other government; because there are so many connections and dependencies to be studied. A despotic prince may choose a man to an office merely because he is the fittest for it.' " Such a conversation would not have occurred during the Chancellorship of Lord Hardwicke or Lord Somers.<sup>b</sup>

I give one other testimony from a popular work published shortly before the close of Lord Bathurst's career as Chancellor:—

"He travelled all the stages of the law with a rapidity that great power and interest can alone in the same degree accelerate. His professional character in his several official situations was never prominently conspicuous, till that wonderful day when he *leaped* at once into the foremost seat of the law. Every individual member of the profession stood amazed; but time, the great reconciler of strange events, conciliated matters *even here*. It was seen that the noble Earl was called upon from high authority to fill an important office, which no other could be conveniently found to occupy. Lord CAMDEN had retired without any abatement of *rooted* disgust, far beyond the reach of persuasion to remove. The great CHARLES YORKE, the unhappy victim of an unworthy sensibility, had just resigned the Seals and an inestimable life together: where could the eye of administration be directed? The rage of party ran in torrents of fire. The then Attorney and Solicitor-General were

at the moment thought ineligible. Perhaps, too, the noble Lord then at the head of affairs, and who was yet untried, had a policy in not forwarding transcendent abilities to obscure his own. Every such apprehension vanished upon the present appointment. This man could raise no sensation of envy as a rival, or fear as an enemy.”<sup>i</sup>

Strange to say, he continued in the office of Lord Chancellor between seven and eight years. We have a very imperfect record of his judicial performances during this period. His reporters are *Ambler* and *Dickens*, and both together hardly give more space to the whole of his Chancellorship than is occupied by a single term of Lord Eldon or Lord Cottenham. He does not seem to have settled any point of much importance, and I can only find one case of general interest which came before him.—The widow of Philip Stanhope having sold to Dodsley, the bookseller, for 1500*l.*, “Lord Chesterfield’s Letters to his Son,” which were advertised for publication, the executors of Lord Chesterfield, who was lately deceased, filed a bill for an injunction. The defendant first insisted that a person to whom a letter is written, or his representatives, may publish it without, or against, the consent of the writer or his representatives; and then tried to make out that at any rate in this case the late Lord Chesterfield, having recovered back some papers which he wished to burn, had expressly given permission to Mrs. Stanhope to make what use she pleased of those letters written by him to her late husband, after she had observed to him that “they would make a fine system of education if published,” and that the only objection he offered was, “that there was too much Latin in them.” But “the LORD CHANCELLOR was very clear that an injunction ought to be granted: That the widow had no right to print the letters without the consent of Lord Chesterfield or his executors: That she had obtained neither the one nor the other: That Lord Chesterfield, when he declined taking the letters and said she might keep them, did not mean to give her leave to print and publish them. He cited the case of Mr. Pope’s letters to be published by Curl, and Lord Clarendon’s Life advertised by Dr. Shebbeare.” *Injunction ordered till hearing, but recommendation given to the executors to permit the publication in case they saw no objection to the work on having a copy of it delivered to them.*<sup>k</sup>

<sup>i</sup> *Strictures on Eminent Lawyers*, p. 76; Ambler, from p. 696 to p. 772; 2 *Dickens*, from p. 432 to p. 544.

<sup>k</sup> Ambler, 737; Thompson and others, executors of the Earl of Chesterfield, v. Stanhope and Dodsley.

The letters were published accordingly, and, upon the whole, there would have been ground for lamentation if they had been suppressed. Upon them chiefly depends the literary reputation of Lord Chesterfield; and, notwithstanding the noted saying of Dr. Johnson concerning the "morals" and "manners" which they teach, and although they are disfigured by passages highly exceptionable, they contain many useful observations on life, and they may be turned to good advantage in the education of youth. Our indignation against the writer is much softened by considering the characteristic faults of his son, to whom they were addressed.<sup>m</sup>

Without able assistance, Lord Bathurst would have made sad work of the appeal business in the House of Lords. He had never been engaged in a Scotch case, and was utterly ignorant of Scotch law, so as not to know the difference of a holding *a me* from a holding *de me*; and the solemn decisions of the fifteen Judges of the Court of Session were to be reviewed by him. But Lord Mansfield, taking compassion upon his destitute condition, or influenced by a regard for the credit of the Government or the interests of justice, attended the hearing of these cases, and they were very satisfactorily disposed of.

The only very important English case which he had to deal with in the House of Lords was one in which he could not conveniently lean on Lord Mansfield; as it was a writ of error from a judgment of the Court of King's Bench on the grand question of literary property. But the twelve Judges were called in, and, adopting the opinion of a majority of them, "that authors have now no property in their works except what the legislature confers," the Chancellor had an easy task to perform in moving a reversal. "Having declared that he was wholly unbiassed, he entered into a very minute discussion of the several citations and precedents relied upon

<sup>m</sup> Lest I should be supposed to give any countenance to the fashionable immorality to be found in these Letters, I copy, for the benefit of my young readers, the epigram describing their result:—

"Vile Stanhope—Demons blush to tell—  
In twice two hundred places  
Has shown his son the road to hell,  
Escorted by the Graces.

"But little did th' ungenerous lad  
Concern himself about them;  
For, base, degenerate, meanly bad,  
He sneak'd to hell without them."

And I will give as an antidote the touching exhortation of my countryman BURNS:—

"The sacred lowe o' weel-plac'd love,  
Luxuriantly indulge it;  
But never tempt th' illicit rove,  
Tho' naething should divulge it:  
I waive the quantum o' the sin,  
The bazard of concealing;  
But, och! it hardens a' within,  
And petrifies the feeling!"

at the bar ; and, one by one, described their complexion, their origin, and their tendency ; showing that they were foreign to any constructions which would support the respondents in their argument. He then gave a history of the bill passed in Anne's reign for the protection of literary property, which, he said, was drawn up by the advice of Swift and Addison ; and concluded with declaring, that he was clearly of opinion with the appellants." <sup>a</sup> The reversal was carried,—after a long debate, however,—several lay peers and bishops taking part in it on opposite sides.

The only other important judicial proceeding in which Lord Bathurst was concerned is the trial of the <sup>April 15, 1776.</sup> Duchess of Kingston, before the House of Lords, for bigamy. The offence being in point of law *felony*, he was, on this occasion, created Lord High Steward, and Westminster Hall was fitted up with as much grandeur as when Charles I. was tried there before LORD PRESIDENT BRADSHAW and the "High Court of Justice,"—although, in this instance, it was known that a conviction could only lead to an admonition "that the lady should not do the like again."

When she first appeared at the bar, and courtesied to the Peers, his Grace the Lord High Steward thus addressed her :—

"Madam, you stand indicted for having married a second husband, your first husband being living : a crime so destructive of the peace and happiness of private families, and so injurious in its consequences to the welfare and good order of society, that by the statute law of this kingdom it was for many years (in your sex) punishable with death ; the lenity, however, of later times has substituted a milder punishment in its stead.<sup>o</sup> This consideration must necessarily tend to lessen the perturbation of your spirits upon such an awful occasion. But that, Madam, which, next to the inward feelings of your own conscience, will afford you most comfort, is, reflecting upon the honour, the wisdom, and the candour of this high Court of criminal jurisdiction. It is, Madam, by your particular desire that you now stand at that bar. In your petition to the Lords, praying for a speedy trial, you assumed the title of Duchess Dowager of Kingston, and you likewise averred that Augustus John Hervey, whose wife the indictment charges you with being, is at this time Earl of Bristol. On examining the records, the Lords are satisfied of the truth of that averment, and have accordingly allowed you the privilege you petitioned for, of being tried by your peers in full

<sup>a</sup> 17 Parl. Hist. 1001, 1400.

<sup>o</sup> Formerly women were hanged for all *clergyable* felonies, however trifling, because they could not plead that they were *clerks*.

Parliament; and from them you will be sure to meet with nothing but justice, tempered with humanity." <sup>P</sup>

The great question was, whether a sentence of the Ecclesiastical Court, which had been obtained, adjudging that there had been no prior marriage, was binding upon the House of Lords in the present proceeding? This having been most learnedly and ably argued by Thurlow and Wedderburn on the one side, and Wallace and Dunning on the other, the Lord High Steward, by the authority of the House, submitted it to the Judges. They gave an opinion in the negative, and the trial was ordered to proceed.

It was then proved by the clearest evidence that the Duchess, when Miss Chudleigh and a maid of honour, had been secretly married to the Honourable Mr. Hervey, at that time a lieutenant in the navy, now Earl of Bristol, and that they lived together some days and nights, although afterwards, repenting of what they had done, they collusively tried to have the marriage declared null in the Ecclesiastical Court; and that she had afterwards been married to Evelyn Pierrepont, Duke of Kingston. The Lords unanimously found her guilty—one Lord adding—"erroneously, not intentionally." *Lord High Steward*: "Madam, the Lords have considered the charge and evidence brought against you, and have likewise considered of every thing which you have alleged in your defence; and upon the whole matter their Lordships have found you guilty of the felony whereof you stand indicted. What have you to allege against judgment being pronounced upon you?" She having prayed the privilege of the peerage, to be exempt from punishment, and, after argument, a resolution being passed that she was entitled to it, the Lord High Steward said to her: "Madam, the Lords have considered of the prayer you have made, and the Lords allow it. But, Madam, let me add, that although very little punishment, or none, can now be inflicted, the feelings of your own conscience will supply that defect. And let me give you this information, likewise—that you can never have the like benefit a second time, but another offence of the same kind will be capital. Madam, you are discharged, paying your fees."

<sup>P</sup> The difficulty would be to try for bigamy a lady married to a peer, whose first alleged husband was and continues a commoner. Quicumque viâ datâ she must be acquitted;

for if there was no prior marriage, she is innocent; and if there was, the second marriage is void, so that she is no peeress, and the Lords have no jurisdiction.

His Grace then broke his white wand, and dissolved the Commission. In this solemn farce, which amused the town for three days, he was allowed to have played the easy part of Lord High Steward very creditably.<sup>1</sup>

Lord Chancellor Bathurst made no attempt to amend the law, or to reform the abuses of the Court of Chancery; but all notion of legal reform had disappeared during the last half of the eighteenth century; and it is a curious fact, that no general order was made by any Chancellor from Lord Hardwicke down to Lord Loughborough.\*

Lord Bathurst was a member of the Cabinet which originated and carried on the most important and the most disastrous war in which this country was ever engaged—the war with our American colonies, by which the empire was dismembered; but I do not believe that he was answerable for any of the imprudent measures of Lord North's administration, except by assenting to them. He probably took no active part in the discussions in council respecting *conciliation* or *coercion*; and, when blood began to flow, he offered no opinion respecting the manner in which the war should be conducted. Even in parliament he very rarely spoke, except on some subject connected with the law; and, unlike Lord Camden and some other lawyers, who have greatly extended their oratorical fame when placed among the Peers, he seems never to have been well listened to in either House.

His maiden speech as a Lord was in defence of the Royal Marriage Act, which was framed, exactly as we now  
A.D. 1772. see it, under the directions of King George III., and which, although several of his ministers disapproved of it, his Majesty was resolutely determined to carry through without any alteration, so that his family might not again be degraded by misalliances—as he thought that it had lately been. Lord Bathurst, although when Attorney-General to Frederick Prince of Wales, his master being at variance with George II., he had seen great reason to doubt the asserted authority of the King respecting the marriage of his descendants, now, as Chancellor to George III., had all his doubts cleared up, and thus in answer to the Marquis of Rockingham he addressed their Lordships:—

“I confess, my Lords, that I had a share in drawing this bill, and I should be unworthy of the situation which I have the honour to fill if



I were not prepared to justify every clause, every word, and every letter in it; and I am free to confess that I will not give my consent to any amendment whatever that may be proposed to it. Better than alter it, throw it out. But your Lordships will see its importance to the state. The King's right to the care of the royal family, and the approbation of their marriages, rests on the public good, and cannot be doubted. As to who are the royal family, all the descendants of George II. are;—and so is the Prince of Wales. They are paid out of the civil list, and therefore they are of the royal family. If any inconvenience arise, parliament will take care to remedy it a hundred years hence. The power may be abused; but so may all power. It is not against religion to annul marriages—as we know by the general Marriage Act, from which the marriages of the royal family are excluded. The public necessity now requires that they should be regulated, and no mode would be effectual, other than that which this bill prescribes.”<sup>a</sup>

At the commencement of the new parliament in November, 1774, a scene was enacted which must have afforded <sup>A.D. 1774—</sup>some amusement to those who recollected Sir <sup>1777.</sup>

Fletcher Norton's biting sarcasm upon the appointment of Bathurst as Chancellor. The same Sir Fletcher Norton being elected Speaker of the House of Commons, had to appear before the same Chancellor at the bar of the House of Lords to “disqualify himself,” and to pray that the Commons might be directed to make a worthier choice. However, this was not the occasion to retaliate; and the Chancellor, in expressing his Majesty's approbation of the choice of the Commons, declared that “no person in Mr. Speaker's situation ever stood less in need of apology.”<sup>b</sup>

In the course of the same session the Chancellor supported the bill for cutting off the commerce of the rebellious provinces in America with the rest of the world;” and the measure of sending Hanoverian troops to Gibraltar and Minorca, the legality of which turned on the just construction of the “Act of Settlement.”<sup>c</sup>

The Americans having now declared their “*Independence*,” and there being open hostilities with them, a great difficulty arose as to the treatment of prisoners taken by us in battle. We still said they were the *King's subjects* who were guilty of “levying war against him in his realm.” But if so, they ought immediately to have been brought to trial for high treason, and they could not legally be detained in custody. To have treated them as *prisoners of war* would have been to acknowledge the authority of Congress as the legislature of a separate

<sup>a</sup> 17 Parl. Hist. 389.<sup>b</sup> *Ib.* 32.<sup>c</sup> *Ib.* 456.<sup>x</sup> *Ib.* 815.

state. To have executed them as *traitors* would not only have been contrary to the rules laid down by jurists respecting the mode of conducting a contest which assumes the aspect of civil war, but would inevitably have led to retaliation, there being many "loyalists" in the power of the "rebels." To extricate the Government from this dilemma, the Chancellor brought in "A Bill to suspend the Habeas Corpus Act with respect to his Majesty's subjects taken fighting against him in America;"—whereby power was given to detain them in custody without bringing them to trial. He said, "If ever there was a bill that deserved the appellation of humanity, it was this. It was certainly necessary that some punishment should be inflicted on persons taken in the act of enmity against us; but what ought it to be? Since it was plainly not expedient that they should be discharged, and not politic, from the apprehensions of retaliation, to put them to immediate death, what was the alternative? In his opinion, the only just medium had been adopted—that of preserving them till the conclusion of the war—so that their offence might still be visited upon them without endangering the lives of our fellow-subjects now in a similar situation in America." The bill passed, though strongly opposed by the Duke of Richmond and other Peers.

Lord Bathurst was always desirous of getting up Lord Mansfield to defend the Government, and of avoiding a personal conflict with Lord Camden; but in the session of 1778 he was driven to give his opinion in favour of the legality of a plan which Ministers had adopted of allowing regiments to be raised and maintained by individuals without the authority of parliament,—contending that, although the "Bill of Rights" declared that "to keep up a standing army in time of peace was contrary to law, this not being a time of peace, the provision did not apply to it." Lord Camden was now very severe upon him, insisting "that the arguments in support of the measure from the woolsack would lead to the utter subversion of the constitution, and that to raise troops without the consent and during the sitting of parliament was not only illegal and unconstitutional, but a violation of the fundamental privileges of parliament." The subject was resumed on a subsequent day, when Lord Camden reiterated his doctrine, but the Lord Chancellor did not venture again to take the field against him.\*

After the calamitous surrender of General Burgoyne and his army at Saratoga, the Earl of Thanet having produced in

\* 19 Parl. Hist. 52, 561.

\* Ibid. 625.

the House of Lords a letter to him from the victorious American General GATES, recommending peace between the two countries, and having moved that it should be laid upon the table, "the Lord Chancellor asked their Lordships if it could possibly be deemed right to accept a letter which held out such terms as were not only exceedingly unequal, but grossly insulting? What! acknowledge the independency of America! and withdraw our army and our fleet! Confess the superiority of America, and wait her mercy! He desired the House to consult their own feelings for an answer." <sup>a</sup> The motion, though supported by the Duke of Manchester and the Duke of Grafton, was negatived without a division.

Soon after, the Chancellor showed that he could be excited by great provocation, and that with a larger stock of moral courage to support him, he might have made a better figure in life. The Earl of Effingham, making a motion for papers respecting the public expenditure, and anticipating the rejection of it, declared "that if the proofs of the extravagant and wasteful conduct of administration were denied him there, he would take care to produce them elsewhere. The public had a right to know in what manner their money was spent, and he would furnish them with information. It was in vain, he saw plainly, to attempt in that House to move for any thing which the Ministers were not willing to give. In the present instance, the First Lord of the Admiralty knew his strength in a division. He would go below the bar, and take with him his—he had like to have said—servile majority; he should not, therefore, rest satisfied, but would use proper means to come at the truth, which he would certainly communicate to the public."—The Lord Chancellor, leaving the woolsack in great warmth, thus spoke:—

"My Lords, I feel myself called on to support the honour of the House. If such language is allowed to pass unnoticed, your Lordships will no longer be moderators between the King and the people. The noble Earl has talked of a *servile majority*; are your Lordships to be so grossly insulted without even administering a rebuke? I have sat in this House seven years, and never before heard so indecent a charge—a

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<sup>a</sup> 19 Parl. Hist. 734, 742. Notwithstanding this public declaration which the Chancellor considered it his duty to make in parliament, it appears from letters which I have seen, but which I am not at liberty to make public, that on the 9th of December, 1777, he had strongly expressed his private opinion to Lord North on the necessity of

opening a negotiation with the Americans for the acknowledgment of their independence, and that he had subsequently tendered his resignation because his advice was rejected. This correspondence is very creditable to Lord Bathurst, and shows that he was much respected by his colleagues.

servile majority! The insinuation is not warrantable. I, for one, have been in the habit of voting for the measures of Government; but will any noble Lord venture to say that I am under undue influence? The Ministers of the Crown know that the place I hold is no tie upon me; they know that I always act freely according to my conscience. I was born heir to a seat in this assembly;<sup>b</sup> I enjoy a peerage by hereditary right. I could not therefore sit silent and hear the noble Earl talk of a *servile majority*. I am amazed that the members of the Government should so long have suffered themselves patiently to be traduced. In future I hope they will know how to check such a strain of invective. The Ministry, my Lords, will always have a majority,—they being independent and the majority independent,—for the moment that the Opposition have a majority, the Ministry will be no more.”<sup>c</sup>

So great was the superiority of numbers which the Government still commanded, that Lord Effingham, to conceal the weakness of his party, suffered the motion to be negatived without a division.

I mention with great pain Lord Bathurst's next public exhibition, for hitherto he has appeared, if not a bright, a worthy and amiable man. After the glorious death of Chatham, which caused such public enthusiasm, and extinguished all enmity against him in almost every bosom,—insomuch that King George III. himself professed to be friendly to the making of some provision for his family,—when the bill for this purpose, which passed with much applause through the Commons, came up to the Lords, the Lord Chancellor (I am afraid from an illaudable desire to please the Court) did his best to throw it out, and opposed it in a most unfair manner, by pretending that, although purely a money bill, it might be properly amended by their Lordships. “The deceased Earl's services,” said he, “when actually minister, I will not depreciate: but they were sufficiently rewarded. A few years after, he accepted the high post of Privy Seal, with great emoluments, at a time when it was well known his bad state of health rendered it impossible for him to assist his Majesty's councils.” Having drawn an invi-

<sup>b</sup> This is not strictly correct, although the peerage had been conferred upon his family three years before his birth, as he was a younger brother till he had reached manhood. I have known a few, and a very few, peers who have gained distinction though born to a peerage: the late Lord Holland, the present Earl of Derby, and others, might be held out as examples—but almost all the peers who have displayed much energy and

talent in my time, have either themselves been created peers or were born before their fathers were created peers, or had begun their career as younger brothers. The *res angusta domi* is not so hard to struggle with as the enervating influence of wealth and high position without the necessity for exertion.

<sup>c</sup> 19 Parl. Hist. 995.

dious comparison between Lord Chatham and the Duke of Marlborough, although himself one of the ministers who had wasted so many millions in the fruitless contest with America, he meanly resorted to the cant that "this was not a proper time to be lavish of the people's money." "But," he added, "what operates powerfully with me against the bill is, that the provision is for the family of him who is supposed to have done the services. Why was not the reward given to him in his lifetime? Because the answer would have been, 'he has had reward enough already from what his Sovereign has done for him.' I never can agree, that by either rejecting or amending a money bill we invade the privileges of the other House, for we are as much trustees for the people as the Commons. The King has assented to the bill; but, addressed as he was by the other House, he was in a great measure obliged to assent—and we cannot suppose that his Majesty will be offended by our exercising our right to reject or amend it. The grant did not spontaneously come from the Crown, as it ought to have done, and would have done if there had been any ground for it. Before I conclude, I must use the freedom to declare that I see no cause to despond because the Earl of Chatham is no more. There still remain as firm well-wishers to their country, and men as capable of doing it real service."<sup>d</sup> I have shown, in the Life of Lord Camden, the merited chastisement inflicted upon the author of this most ungracious and foolish effusion.<sup>e</sup>

Lord Bathurst's last speech in the House of Lords, as Chancellor, was in opposition to a motion of the Duke of Bolton, for an address to his Majesty, "to implore him that he would be graciously pleased to defer the prorogation of parliament until the present very dangerous crisis may be happily terminated." This was warmly supported by Lord Camden, who drew a most melancholy picture of the state to which the country had been reduced by the misconduct of Ministers, and forcibly pointed

<sup>d</sup> The Earl of Chatham is dead, but Earl Bathurst survives!!! At any rate our Chancellor thought it was fitter to imitate the King of England than the King of Scotland:

"This news was brought to Edinburgh,  
Where Scotland's King did reign,  
That brave Earl Douglas suddenly  
Was by an arrow slain.

"O heavy news! King James did say;  
Scotland can witness he,

I have not any Captain more  
Of such account as he.

"Like tidings to King Henry came  
Within as short a space,  
That Percy of Northumberland  
Was slain in Chevy Chase.

"Now, God be with him, said our King,  
Sith 'twill no better be:  
I trust I have within my realm  
FIVE HUNDRED AS GOOD AS HE."

<sup>e</sup> Ante, p. 13.

out the necessity of a change both of measures and of men to preserve our national independence.

The Chancellor followed, and attempted to answer him, but seems to have entirely failed, if he did not actually break down. He confined himself to some technical remarks on the mode in which parliament may be summoned at common law and by the statute, and on the inconvenience which would be felt if the two Houses were merely to adjourn, instead of being prorogued. The motion was negatived by a majority of 42 to 20, but the Opposition Peers being triumphant in the debate, it was thought indispensable that the Government should be strengthened in the House of Lords.

The following day the prorogation took place, and as soon as the ceremony was over, a Council was held at St. James's, when the Great Seal was surrendered by Lord Bathurst, and was delivered to Thurlow, the Attorney-General, as Lord Chancellor, the ex-Chancellor being declared President of the Council.

This proceeding seems to have been very precipitate: it was not accompanied with any other changes, and I am unacquainted with its secret history. One would have expected that, having tided over the session, Lord Bathurst, notwithstanding his inefficiency, would have been allowed to retain his office till after the long vacation, and till parliament and the Court of Chancery were to meet again in November. He had not had any difference with Lord North, or any of the other ministers, and they were conscious that he had done his best to serve them. I suspect that, from the approaching war against France and Spain, and the questions which were anticipated with neutral powers, some advice was required in the Cabinet upon international law, which might be given in a bolder tone, and acted upon with more confidence. It is very much to be deplored that, when the disputes with the colonies were ripening into civil war, and when sound constitutional councils might have saved the state, there sat in the Cabinet one of the weakest, though one of the worthiest of our Chancellors.

His most meritorious act while he held the Great Seal (which I have much pleasure in commemorating) was his giving spontaneously a commissionership of bankrupts to Sir William Jones,—still, notwithstanding brilliant talents and stupendous acquirements, struggling with pecuniary difficulties. Soon after Lord Bathurst's resignation, came out the "Transla-

tion of the Orations of Isæus," dedicated to the ex-Chancellor. The dedicator, a little at a loss for topics of public commendation, dexterously takes shelter under the supposed modesty of his patron, and, preserving at once a character for gratitude and for sincerity, contents himself with saying—

"I check myself, therefore, my Lord, with reluctance, and abstain from those topics to which the overflowing of my zeal would naturally impel me; but I cannot let slip the opportunity of informing the public, who have hitherto indulgently approved and encouraged my labours, that although I have received many signal marks of friendship from a number of illustrious persons, to whose favours I can never proportion my thanks, yet your Lordship has been my greatest, my only benefactor; that, without any solicitation or even request on my part, you gave me a substantial and permanent token of regard, which you rendered still more valuable by your obliging manner of giving it, and which has been literally the sole fruit that I have gathered from an incessant course of very painful toil."

While Lord Bathurst held the Great Seal, an attempt was in vain made to corrupt him by a secret offer to Lady Bathurst of three thousand guineas for the living of St. George's, Hanover Square. The offer was traced to the famous Dr. Dodd, then a King's chaplain, and he was immediately dismissed from that situation. This Chancellor is allowed to have disposed of his church patronage very creditably, although on one occasion he incurred considerable obloquy by conferring a chaplaincy on Martin Madan, (the translator of Juvenal,) whose heterodox opinions and indifferent morals were then generally notorious, and who afterwards gave such serious offence to the Church by the publication of his "*Thelyphthora*" in favour of the doctrine of polygamy.<sup>f</sup>

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## CHAPTER CLIV.

### CONCLUSION OF THE LIFE OF LORD BATHURST.

LORD BATHURST continued President of the Council nearly four years, till the formation of Lord Rockingham's Administration—when he resigned with Lord North. During this disastrous interval, although he was still a member of the Cabinet, he did

<sup>f</sup> *Lives of Eminent English Judges*, p. 36.

not take a leading part in public affairs, and he seldom opened his mouth in the House of Lords,—Thurlow, his successor, treating him with very little consideration or courtesy. In 1779 he made a speech in defence of the management of Greenwich Hospital, when he was very roughly handled by Lord Camden, but rescued by Lord Mansfield.<sup>s</sup> Soon after, he came forward to resist the Duke of Richmond's motion about the Civil List Expenditure, contending that, "if a system of economy was to be adopted, it should not begin with the Crown, the splendour of which should be maintained by an ample revenue for the honour and dignity of the empire."<sup>h</sup>

In the following session, Government being hard pressed upon the occasion of Lord Shelburne's motion for an  
 March 6, 1780. address to his Majesty praying to be informed "by whose advice the Marquis of Carmarthen and the Earl of Pembroke had been dismissed from the office of Lord Lieutenant by reason of their conduct in parliament,"—Lord President Bathurst said :

"He could declare with truth, that, after upwards of thirty years' public service, he did not know that he had ever made an enemy, or given just cause of offence, in any public character he had filled. He disapproved of removing persons from their appointments under the Crown, except for misconduct or incapacity, but he thought the present motion highly objectionable, as it went to intrench on the King's prerogative of choosing his own servants: this, like other prerogatives, might be abused, but it was necessary for the public good; and there was no pretence for saying that it had been abused in the present instance, as there was nothing to distinguish the removals, which formed the subject of the present debate, from a continued stream of precedents since the Revolution down to the present day."<sup>i</sup>

The Lord President was the organ of the Government in the House of Lords respecting the proceedings to be taken in consequence of Lord George Gordon's riots. On the 2nd of June, 1780, their Lordships, in approaching Westminster Hall, were in serious danger from the violence of the mob, and it was with the utmost difficulty, and after much ill usage, that they could force their way through Palace Yard. On their assembling in their own chamber, we are told by an eye-witness that "it is hardly possible to conceive a more grotesque appearance than the House exhibited. Some of their Lordships with their hair about their shoulders; others smothered with dirt; most of them as pale as the ghost in Hamlet, and all of them standing

<sup>s</sup> 20 Parl. Hist. 569.<sup>h</sup> Ib. 1259.<sup>i</sup> 21 Parl. Hist. 225.



up in their several places, and speaking at the same instant one Lord proposing to send for the guards; another for the justices or civil magistrates; many crying out, *Adjourn! adjourn.* while the skies resounded with huzzas, shoutings, hootings, and hissings in Palace Yard. This scene of unprecedented alarm continued above half an hour." News was then brought that Lord Boston had been dragged from his coach, and was undergoing the most cruel ill usage from the rabble, who detained him a prisoner.

Lord Bathurst showed great courage, and rose from the ministerial benches to implore order, and to make a regular motion,—but he could not procure a hearing. Lord Townshend offered to be one that would go in a body to the rescue of their brother peer. The Duke of Richmond, however, as a piece of pleasantry—somewhat ill-timed—suggested that if they went as a House, the mace ought to be carried before the noble and learned Lord on the woolsack, who (the Bishops being excused) should go at their head, followed by the Lord President of the Council, the next in rank who could fight. Lord Mansfield, then acting as Speaker in the absence of the Lord Chancellor, declared his readiness to do his duty. Just at that moment Lord Boston entered, with hair all dishevelled, and his clothes almost covered with hair powder and mud, occasioned by the ill-treatment he had experienced. After some further tumultuous discussion, Lord Bathurst moved an adjournment, which was carried. The House gradually thinned, most of the Lords having either retired to the coffee-houses, or gone off in hackney-carriages, while others walked home under favour of the dusk of the evening—leaving Lord Mansfield, in the seventy-sixth year of his age, alone and unprotected, save by the officers of the House and his own servants.

Next day, "Earl Bathurst called the attention of the House to the great fall from dignity which their Lordships had suffered the preceding day, in consequence of the gross insults and violence offered to many of their Lordships' persons by the rioters and unruly mob which had assembled in the streets, and not only interrupted the members of that House in their way to it, and prevented many from coming to do their duty in parliament, but had obliged others, after a compulsory adjournment, to steal away, like guilty things, to save themselves from being sacrificed to lawless fury. Their Lordships had witnessed the insults and violence offered to the persons

of several of their Lordships; but others had been still greater sufferers; in particular, a right reverend Prelate (the Bishop of Lincoln) had been stopped in the street,—had been forced out of his coach, the wheels of which were taken off,—and, having sought refuge in a private house, had been followed by the mob, and had been obliged to make his escape in disguise. Before their Lordships proceeded to any other business, it behoved them to do something for the recovery of their dignity, by bringing the offenders to justice.” He concluded by moving an address to his Majesty, praying “that he would give immediate directions for prosecuting in the most effectual manner the authors, abettors, and instruments of the outrages committed yesterday in Palace Yard and places adjacent.” After a debate, in which the Government was severely blamed for negligence in not taking proper measures to secure the peace of the metropolis, the motion was agreed to. He afterwards moved that the Judges should prepare a bill “to indemnify sheriffs and gaolers for the escape of prisoners during the late tumults,” as these officers of the law were now liable for very heavy fines and punishments, without having been guilty of any negligence. The bill was brought in, and passed without opposition.<sup>k</sup>

Lord Bathurst’s last considerable effort on the stage of public life appears to have been one of his best. In the  
A.D. 1781.  
 debate respecting the rupture with Holland, in answer to a violent attack on Ministers by the Duke of Richmond, he said—

“That measures in support of the dignity of the Crown, the rights of Parliament, and the national safety, were arraigned in the most indecent terms, and when all other means of defeating them failed, then noble Lords predicted national ruin, which they said was brought about by ministerial corruption. This he would never allow to pass by in silence, it being evidently the language of disappointed ambition. All their Lordships who supported the Government were involved in the general accusation. Was it possible to sit in the House, day after day, without feeling the strongest emotions of well-founded indignation? The noble Lords to whom his Majesty had intrusted the direction of his affairs were basely and unjustly vilified—their characters scandalously and indecently traduced—charged with being wicked at one time, and incapable at another, according as it corresponded with the views, or answered the purposes, of their accusers—as having entered into a conspiracy against the liberties of their country, and leagued for

<sup>k</sup> 21 Parl. Hist. 672—698.

its destruction. He had for a long series of years served his Sovereign in various capacities, and he could lay his hand upon his heart, and with truth affirm that he had ever acted for the good of his country according to the best of his abilities; and that there was nothing the Crown had to bestow which could induce him to give a vote contrary to his conscience. He had enough to put him above the poor temptations of patronage and emolument; and he believed there was not a single noble Lord, who had supported the measures asserted to be carried by the mere force of corruption, who did not act from motives equally honourable and conscientious as himself. But it was plain whence all this arose—a wicked ambition—a lust of power—a thirst after the emoluments of office—from corruption—and the worst species of corruption, for it was incurable—a corruption of the heart. Measures were opposed because they were said to be the King's measures; Ministers were traduced merely because they were Ministers; the object of the Opposition was to storm the Government, reckless of consequences—but, what grieved him more than private persecution or public accusation, the dearest interests of the country were sacrificed in the conflict. He trusted, however, that the good sense of the nation would see that such conduct flowed from party rage—the result of political despair and factious disappointment.”

The Duke of Richmond retaliated, alluding to the time when Lord Bathurst was in opposition:—

“The noble and learned Lord speaks from long experience. His early struggle was tedious and mortifying—full of disappointment, and clouded with despair. No man is a better judge of the various operations of the human mind under such circumstances. So he concludes that a wicked, corroding ambition, whetted and inflamed by unavailing attempts, and ending in a state of political despair, is accompanied with malice and personal enmity, and ‘that worst species of corruption—a corrupt heart.’ But the noble and learned Earl is a Tory; he was then in opposition to the Whigs. Whoever opposes *his* friends, whether in or out of place, must act from factious motives and a *corrupt heart*.”<sup>m</sup>

Lord Bathurst did not reply, nor afterwards venture to stand forward as the champion of the Court.

We next find him, while carrying through a Government bill for imposing a stamp on almanacks, engaged in an altercation with Thurlow, the Chancellor, who seems always to have thought that he had a privilege to oppose the measures of every Government with which he was connected; and to assail any of his colleagues. The Chancellor complained bitterly of the manner in which the bill was worded,

saying that "several clauses were contradictory and unintelligible."

The Lord President tried to explain and defend them :—

*Lord Chancellor* : "I am very sorry to say that the explanation of my noble and learned friend affords no satisfactory answer to my objections. Indeed, I am so dull of apprehension as to be unable to understand him. I do suspect, my Lords, that the framer of the first clause accidentally omitted the word 'not,' and that he really meant to forbid the doing of the very thing which is here commanded." It appears to me a gross mistake, and I must beg your Lordships 'not' to give your sanction to nonsense."—*Lord President* : "The proposed amendment of the noble and learned Lord on the woolsack would defeat the whole object of the bill, which is sufficiently plain to those who are willing to discover it,"

The Lord Chancellor attacked other clauses, but met with no support, and Lord Bathurst succeeded in carrying his bill without any amendment.\*

Such conflicts shook an Administration now tottering to its fall. Lord North, personally, had been for some time eager to withdraw, but was prevailed upon to retain office from the King's insuperable dislike to the Opposition leaders, and his threat to abandon England and the English crown rather than consent to the independence of America. At last the Government was in a minority in one House, and, on a motion of which notice had been given by Lord Shelburne, was threatened with the same fate in the other. To avert the coming storm, Lord North announced that "his Majesty's Ministers were no more."

Lord Bathurst, always downright and sincere, did not, like Thurlow, intrigue to continue in office with those to whom he had been opposed on all the most important principles on which the state was to be governed, and instantly resigned with his chief, intending now to enjoy the repose of private life. There was yet no parliamentary allowance for ex-Chancellors, and he declined the grant of a pension. But he had been able to procure a tellership of the Exchequer and other valuable sinecures for his son.

During a few years following he occasionally attended in his place in the House of Lords, but he did not mix in the party contests which ensued, and he was never excited to offer his

\* This reminds one of the proposal—for the purpose of making precept and faith square with practice—to take "not" from the COMMANDMENTS, and to put it into the CREED.  
 22 Parl. Hist. 538—548.

opinion on either side, by the animated discussions on the Peace of Paris, on the Coalition between Mr. Fox and Lord North, on Mr. Fox's India Bill, on the Regency Question, on the French Revolution, or on the commencement of the war with the French Republic, which he lived to see.

He seems only to have spoken once after his retirement from office—in opposing a bill for the relief of insolvent debtors; which, according to his narrow <sup>July 3, 1783.</sup> views, he considered unjust to creditors and ruinous to trade.<sup>p</sup> But it should be recollected that such notions were then very generally entertained, and that Mr. Burke, by condemning imprisonment for debt, was so far in advance of his age, that he was considered a dangerous innovator, and on this ground chiefly lost his election for the city of Bristol.<sup>q</sup>

Lord Bathurst spent his last years entirely in the country, and, after a gradual decay, expired at Oakley Grove, <sup>A.D. 1794.</sup> near Cirencester, on the 6th day of August, 1794, in the eighty-sixth year of his age. His remains were interred in the family vault there, and a monument to his memory was erected in the parish church, with this simple and touching inscription, which he himself had composed:—

“In Memory of HENRY EARL BATHURST, SON and Heir of Allen Earl Bathurst, and Dame Catherine, his Wife.

“His ambition was to render himself not unworthy of such Parents.”

Although of very moderate capacity, he always acted a consistent and honourable part; and, never having deserted his principles or his party, or engaged in any unworthy intrigue to aggrandize himself, the blame cannot rest upon him that he was placed in situations for which he was incompetent.

I hope I shall not be expected to enter into any analysis of his character as a judge, as a statesman, or an orator, for in his mental qualities and accomplishments he is really not to be distinguished from the great mass of worthy men who, when alive, are only known to their families and a small circle of friends, and who are forgotten as soon as the grave has closed over them. He is praised for his temperate and regular habits, and for the dignity and politeness of his manners. In public

<sup>p</sup> 23 Parl. Hist. 1100.

<sup>q</sup> Even when I was Attorney-General, and brought in a bill to abolish imprisonment for

debt, I was only able to carry it as to *mesne process*, leaving cases *after judgment* for subsequent legislation.

life (as he often boasted) he made no enemies, and in private life he was universally beloved.

He remained a bachelor till forty, when he married a widow lady, who, in four years, died without bringing him any children. In 1759 he took for his second wife, Tryphena, daughter of Thomas Scawen, Esq., of Maidwell, in the county of Northampton, and by her (besides other issue) had a son, Henry, the third Earl, a distinguished statesman, who ably filled high offices under George III., and under George IV. both as Regent and King. The Lord Chancellor Bathurst is now represented by his grandson, Henry George, the present and fourth Earl.\*

\* *Grandeur of the Law*, 70. I may be accused of having omitted to mention what is perhaps the most memorable act in the life of Lord Chancellor Bathurst,—that he built

Apsley House at Hyde Park Corner, the town residence of the illustrious Duke of Wellington,—where stood the “Hercules Pillars,” the inn frequented by Squire Western.

## CHAPTER CLV.

LIFE OF LORD CHANCELLOR THURLOW FROM HIS BIRTH TILL HE WAS  
APPOINTED SOLICITOR GENERAL.

I NOW arrive at a remarkable æra in my history of the Chancellors. I had to begin with some who “come like shadows, so depart,” and who can only be dimly discovered by a few glimmering rays of antique light.

*“Ibant obscuri solâ sub nocte per umbram,  
Perque domos Ditis vacuas et inania regna.”*

The long procession which followed I have been obliged to examine through the spectacles of books.—With these eyes have I closely beheld the lineaments of Edward Lord Thurlow; with these ears have I distinctly heard the deep tones of his voice.

*“Largior hic campos æther et lumine vestit  
Purpureo; solemque suum, sua sidera norunt.”*

Thurlow had resigned the Great Seal while I was still a child residing in my native land; but when I had been entered a few days a student at Lincoln’s Inn it was rumoured that, after a long absence from parliament, he was to attend in the House of Lords, to express his opinion upon the very important question, “whether a divorce bill should be passed on the petition of the wife, in a case where her husband had been guilty of incest with her sister?”—there never hitherto having been an instance of a divorce bill in England except on the petition of the husband for the adultery of the wife.

When I was admitted below the bar, Lord Chancellor Eldon was sitting on the woolsack; but he excited comparatively little interest, and all eyes were impatiently looking round for him who had occupied it under Lord North, under Lord Rockingham, under Lord Shelburne, and under Mr. Pitt. At last there walked in, supported by a staff, a figure bent with age, dressed in an old-fashioned grey coat, with breeches and gaiters of the same stuff—a brown scratch wig—tremendous white bushy eye-brows—eyes still sparkling

May 20,  
1801.

with intelligence—dreadful “crows’ feet” round them—very deep lines in his countenance—and shrivelled complexion of a sallow hue,—all indicating much greater senility than was to be expected from the date of his birth as laid down in the “Peerage.”

The debate was begun by his Royal Highness the Duke of Clarence, afterwards William IV., who moved the rejection of the bill, on the ground that marriage had never been dissolved in this country, and never ought to be dissolved, unless for the adultery of the wife,—which alone for ever frustrated the purposes for which marriage had been instituted.

Lord Thurlow then rose, and the fall of a feather might have been heard in the House while he spoke. At this distance of time I retain the most lively recollection of his appearance, his manner, and his reasoning. “I have been excited by this bill,” said he, “to examine the whole subject of divorce, as it has stood in all periods of time, and under all circumstances. Not only among civilised heathen nations, but by the Levitical law, and by the Gospel, a woman may be put away for adultery, and the remedy is not confined to the husband. The ecclesiastical courts in this country having only power to grant a divorce *à mensâ et thoro*, the tie of marriage can only be dissolved by the legislature; and when an application is made to us for that purpose, we ought to be governed by the circumstances of each particular case, and ask ourselves, whether the parties can properly continue to cohabit together as husband and wife? Common law and statute law are silent upon the subject, and this is the rule laid down by reason, by morality, and by religion. Why do you grant to the husband a divorce for the adultery of the wife? because he ought not to forgive her, and separation is inevitable. Where the wife cannot forgive, and separation is inevitable by reason of the crime of the husband, the wife is entitled to the like remedy. Your only objection is—mistrust of yourselves, and a doubt lest, on a future application by a wife, you should not conduct yourselves with sound discretion. Is such mistrust—is such doubt—a sufficient reason to justify a House of Parliament in refusing to put an end to a contract, all the objects of which, by the crime of one party, are for ever defeated? By the clearest evidence, Mr. Addison since the marriage has been guilty of incest with the sister of Mrs. Addison. Reconciliation is impossible. She



cannot forgive him and return to his house, without herself being guilty of incest. Do such of your Lordships as oppose the bill for the sake of morality propose or wish that she should? Had this criminal intercourse with the sister taken place before the marriage, the Ecclesiastical Court would have set aside the marriage as incestuous and void from the beginning; and is Mrs. Addison to be in a worse situation because the incest was committed after the marriage, and under her own roof? You allow that she can never live with him again as her husband, and is she,—innocent, and a model of virtue,—to be condemned for his crime to spend the rest of her days in the unheard-of situation of being neither virgin, wife, nor widow? Another sufficient ground for passing the bill is, that there are children of this marriage, who, without the interference of the legislature, would be exclusively under the control of the father. Now, your Lordships must all agree that such a father as Mr. Addison has proved himself to be, is unfit to be intrusted with the education of an innocent and virtuous daughter. The illustrious Prince says truly, that there is no exact precedent for such a bill; but, my Lords, let us look less to the exact terms of precedents than to the reason on which they are founded. The adultery of the husband, while it is condemned, may be forgiven, and therefore is no sufficient reason for dissolving the marriage; but the incestuous adultery of the husband is equally fatal to the matrimonial union as the adultery of the wife, and should entitle the injured party to the same redress."

I cannot now undertake to say whether there were any *cheers*, but I well remember that Henry Cowper, the time-honoured Clerk of the House of Lords, who had sat there for half a century, came down to the bar in a fit of enthusiasm and called out in a loud voice, "CAPITAL! CAPITAL! CAPITAL!" Lord Chancellor Eldon declared that he had made up his mind to oppose the measure, but that he was converted; and ex-Chancellor Lord Rosslyn confessed that the consideration which had escaped him,—of the impossibility of a reconciliation,—now induced him to vote for the bill. Having passed both Houses, it received the royal assent, and has since been followed as a precedent in two or three other cases of similar atrocity.\*

\* 35 Parl. Hist. 1429; Macqueen's Practice of the House of Lords, 594. At the first public masquerade which I attended in London, which was soon after this, there was a

*Virgilium vidi tantum.* I never again had an opportunity of making any personal observation of Thurlow; but this glimpse of him renders his appearance familiar to me, and I can always imagine that I see before me, and that I listen to the voice of, this great imitator of GARAGANTUA.

I was struck with awe and admiration at witnessing the scene I have feebly attempted to describe; and I found that any of Thurlow's surviving contemporaries, with whom I afterwards chanced to converse, entertained the highest opinion of what they denominated his "gigantic powers of mind." I must confess, however, that my recent study of his career and his character has considerably lowered him in my estimation; and I have come to the conclusion that, although he certainly had a very vigorous understanding, and no inconsiderable acquirements—the fruit of irregular application,—he imposed by his assuming manner upon the age in which he lived,—and that he affords a striking illustration of the French maxim, "*on vaut ce qu'on veut valoir.*"

This personage—celebrated as a prodigy by historians and poets in the reign of George III., but whom posterity may regard as a very ordinary mortal—was born in the year 1732, at Bracon-Ash, in the county of Norfolk. His father, Thomas Thurlow, was a clergyman, and held successively the livings of Little Ashfield in Suffolk, and of Stratton St. Mary's in Norfolk. The Chancellor himself never attempted to trace his line distinctly farther back than his grandfather, who was likewise a country parson,—although there was an eminent "*conveyancer*" whom he sometimes claimed as the founder of the family. He had a just contempt for the vanity of new men pretending that they are of ancient blood; and some one attempting to flatter him by trying to make out that he was descended from THURLOE, Cromwell's secretary, who was a Suffolk man,—“Sir,” said he, “there were two Thurlows in that part of the country, who flourished about the same time: Thurloe the secretary, and Thurlow the carrier. I am descended from the last.”<sup>1</sup> Nor could he boast of hereditary wealth, for his

character which professed to be LORD CHANCELLOR THURLOW—dressed in the Chancellor's robes, band, and full-bottom wig. I am sorry to say that, to the amusement of the audience, he not only made loud speeches, but swore many profane oaths.

<sup>1</sup> In the “*Peerages*” there is a long pedigree

given, tracing him up to a family of Thurlow, of considerable antiquity in the northern part of the county of Norfolk, in which, although I doubt not it is very authentic, the “Carrier” does not appear, and with which, therefore, I do not trouble the reader.

father's livings were very small, and there were several other children to be reared from the scanty profits of them. Yet, perhaps, his situation by birth was as favourable as any other for future eminence. Being the son of a clergyman, he escaped the discredit of being "sprung from the dregs of the people," and he had as good an education as if he had been heir to a dukedom. For his position in society, and for his daily bread, he was to depend entirely on his own exertions." His father used to tell his sons betimes, that he could do nothing for them after he had launched them in a profession. The old gentleman would then say (aside) to a friend, "I have no fear about Ned; *he* will fight his way in the world."

Of Ned's early years, a few anecdotes have been handed down to us. It being known that on account of his lively parts he was destined to be a lawyer, the Reverend W. Leach, whom he was in the habit of visiting while a very young boy, said to him one day, "I shall live to see you Lord Chancellor,"—and, forty years after, obtained from him a stall at Norwich, and a living in Suffolk.

He received his earliest instructions under the paternal roof, and was four years at a school at Scarning under a Mr. Brett.\* Here, according to the fashion of the age, the boys wore wigs, and Ned Thurlow (whether as an emblem of his future greatness I know not), having a "*full bottom*," used to put it into his pocket when he went to play.

One of the amusements then encouraged at this and most other schools in England—now abolished for its cruelty—was "cock-throwing." By the kindness of the son of a school-fellow of Thurlow,† I am enabled to lay before the reader a copy of verses written by him on one of these "*gallicides*." Notwithstanding inaccuracies with which he is chargeable, he must be allowed to display in this performance the vigour of mind which afterwards distinguished him;—and it is impossible not to admire his patriotic *fling* at the French, with whom we were then at war, and his well-deserved compliment to the hero of Culloden.

\* I belong to a club of "Sons of the Clergy of the Church of Scotland," of which the late Dr. Baillie, Serjeant Spaukie, and Wilkie the painter, were members. The last was our great ornament. I well remember a speech of his from the chair, in which he said,—"*born in the manse, we have all a patent of nobility.*"

\* That very eminent Judge and elegant scholar, Mr. Baron Alderson, was educated at the same school, and remembers their great boast when he entered, that *they had produced a Lord Chancellor.*

† Charles Frederick Barnwell, Esq., of Woburn Place.

## "GALLICIDUM.

\* NYMPHAM dum pulchram comitabar forte Belindam  
 —Gratia quam sequitur, quamque Cupido colit;  
 Qualia ubi in propriam migrat Cythereia Cyprum,  
 Propitioque agros numine Diva beat,  
 Cum vinum pateris profusum altaria libat,  
 Ignibus atque piis mollia thura jacent—  
 Introli campum, quem ostendit semita, planum,  
 Quo flores teneri et gramina læta virent.  
 Confusam mirans turbam, puerosque, aenesque,  
 Ignotum vulgus cerno, virosque duces.  
 Jam magis atque magis populi crebescere murmur;  
 Et vox audita est plurima rauca sonans.  
 Ut si quando Aquilo gelido bacchatus ab Areto  
 (Subversis sylvia saltibus atque vagis)  
 Procumbit ponto, fumanteque asperat undas,  
 Horrisonoqua mari littora curva ferit.  
 At clamore novo et magnâ perterrita turbâ,  
 Nympha mihi effugiens hæc sua jussa dedit:  
 'I, turbâ mediâ perruptâ, ex ordine narra  
 Cur spatium hoc campi tanta caterva premit.'  
 Dixit; et imperiis parens, caveam ipæ petivi,  
 Quam spatio lato deseruit populus.  
 Jam pede constrictus frustra volitare laborat  
 Gallus, frustra alia æthera summa petit.  
 Adstitit ac heros, cui vim natura paravit,  
 Culque artem ludi suppeditavit amor.  
 Non alius plures maculavit sanguine fustes,  
 Gallorumve dedit corpora plura neci.  
 Hic, baculum attollens, mirâ quod fecerat arte,  
 Atque manu versans, talia voce refert:  
 'O fustis, nostros nunquam frustrata vocatus,  
 Hunc gallum mitte ad littora dira Stygia.'  
 Nec plura effatus telum contorsit, in auras  
 It clamor feriens sidera summa poli.  
 Jupiter ut quondam, mundi miseratus adusti  
 (Solis enim flammæ sensit uterque polus,  
 Terraque subsidens Phætoni dira precata,  
 Neptunusque suis torridus æquoribus),  
 Fulmen in aurigam dextrâ libravit ab aure,  
 Excussitque rotis atque animâ pariter;  
 Sic periens cecidit, violento gallus ab ictu,  
 Nec crura eversum dilacerata ferunt.  
 Sic Galli intereant omnes! sic Anglia semper  
 Prostrato repetat lætior hoste domum!  
 Gentes audaces cum ducat Cumbrius heros,  
 Quo virtus jubet, et gloria celsa vocat,  
 Magnanimus populus victricia signa sequatur,  
 Et lætus repetat victor ovansque domum!" \*

\* The following is a translation of these  
 verses by the very eminent *alumnus* of Scarn-  
 ing School, my valued friend, the Honourable  
 Mr. Baron Alderson:—

"COCK-THROWING AT SHROVE-TIDE

"WITH fair Belinda as I walk'd one day,  
 Round whom young Love and all the  
 Graces stray,

At Scarning, Thurlow seems to have been a great Pickle, as well as to have shown some talent, for he was next sent to the grammar school at Canterbury; and Southey, in his *Life of Cowper*, on the authority of Sir Egerton Brydges, accounts for this movement by narrating that Dr. Downe, his father's friend, having a great spite against Mr. Talbot, head master of that school, with whom he had had a violent quarrel, recommended strongly that young Edward Thurlow should be sent to it,—his secret motive being that the hated pedagogue might have under his care "a daring, refractory, clever boy, who would be sure to torment him."<sup>a</sup> At Canterbury Thurlow remained some years. We are not told what pranks he played there, and I conjecture that this was his period of steady application,—when he acquired the greatest share of that classical learning for which he was afterwards distinguished.<sup>b</sup>

—She fair as Venus, who to Cyprus yields  
Her wish'd-for presence, blessing all its  
fields,

Where ruddy wines in rich libations flow,  
And fires of incense in her temples glow—  
We reach'd, by devious paths, an open  
ground,

With grass and varied flowers enamell'd  
round.

There roam'd a crowd at once of men and  
boys,

All shouting out amain—an awful noise,  
Loud as when Aquilo his legions pours,  
Or Notus drowns the earth with pelting  
showers;

Whilst dark and darker still rush down the  
floods,

Proce in confusion fall the crashing woods;  
Old Ocean foams beneath th' astounding  
roar,

And billowy mountains roll and beat the  
shore.

Alarm'd, the Nymph at once in terror fled,  
But, ere she vanish'd, thus to me she said:

'Go, sir, at once, and, if you can, find out  
What all this crowd and tumult is about.'  
She spake—and I obey'd,—I sought the  
throng,

And reach'd the open central space.—Ere  
long,

Tied by the leg, a captive cock I spied,  
Who oft to use (in vain) his pinions tried;  
Whilst near him stood, in Nature's strength,  
a clown,

Taught, by long use, the art of knocking  
down;

None e'er like him incarnadin'd with stains  
So many clubs, or spoil'd so many mains.  
He seiz'd a stick with wondrous skill pre-  
par'd,

And thus address'd it as his hand he  
bar'd:—

'My trusty club, which never fail'd me  
yet,

Fly swift, and let that cock his wages get.'  
He spake and threw,—'Tis done!' ex-  
claim'd the clown;

Shouted the crowd amaz'd,—'He's down!  
he's down!'

As when old Jove his thunderbolts up-  
rear'd.

('Twas time) when Sol's ungovern'd son  
appear'd

Through heaven and panting earth his car  
to wheel

Till Neptune's self, half-boil'd, began to  
squeal,

Right on the lad's doom'd head the light-  
nings beat,

And he at once lost both his life and seat.  
So fell the cock beneath the heavy blow,

His legs and spurs far scatter'd to and fro.  
Thus may thy cocks, false recreant Gallia,

fall,

And thou, Old England, then be cock of  
all.

Whilst Cumbria's hero still to conquest  
leads,

And British soldiers emulate his deeds.  
Oh, may he soon recross the subject main,

And seek—in triumph seek—his home  
again!"

<sup>a</sup> Southey's *Life of Cowper*, 23.

<sup>b</sup> Thurlow always spoke kindly of Talbot, but considered himself so barbarously used by Brett, that he fostered an inextinguishable hatred of him. While Attorney-General, going into a bookseller's shop at Norwich, Brett followed him, and most obsequiously accosted him. Thurlow taking no notice of him, Brett said, "Mr. Thurlow, do you not recollect me?"—*Mr. Attorney-General*: "I

He was next sent to Caius College, Cambridge.<sup>c</sup> Here he affected the character of idleness. He was suspected of sitting up at night to read;—and sometimes in the morning, when pretending to be wandering about in the fields, he “sported the oak,”<sup>d</sup>—shutting himself up to prepare for a College examination;—but he eschewed the chapel and the lecture room, and loved to be seen lounging at the gates of his college,—or loitering in coffee houses, then frequented by the undergraduates,—or figuring in a nocturnal symposium,—or acting as leader of the University men in the wars between “town” and “gown.” His frequent breaches of academic discipline made him familiar with impositions, confinements within the college, privations of sizeings, and threats of rustication. He rather prided himself in such punishments, and, instead of producing reformation, they led to fresh offences. He is reported to have often taken upon himself the blame of acts in which he had no hand, for the pleasure of arguing the case, and showing his ingenuity in justifying what he was supposed to have done. Equally celebrated was he for waywardness in getting into scrapes and for cleverness in getting out of them. The statutes of the University enjoin that all undergraduates shall wear habits *nigro aut subfusco colore*, and specially prohibit collars or cuffs of a different colour from the coat. Thurlow had been a frequent offender against this rule. On one occasion, meeting a fellow when in the prohibited dress, he boldly denied that he had transgressed. “What!” cried the Don, “am I not to believe my own eyes?” “Not always;” and, casting off his coat on the grass-plot, he proved that the gay cuffs and collar were affixed to the vest, and ingeniously turned over the coat. On another occasion, the master having thus rebuked him—“Sir, I never come to the window without seeing you idling in the court,”—the unabashed undergraduate answered, “Sir, I never come into the court without seeing you idling at the window.”<sup>e</sup>

am not bound to recollect every scoundrel who chooses to recollect me.”

<sup>c</sup> By the kindness of the Rev. Dr. Chapman, the present Master of the College, I have been favoured with the following copy of his matriculation.

Extract from the Matriculation Book of Gonville and Caius College, Cambridge, 5th October, 1748:—“Edwardus, filius Reverendi Thomæ Thurlow, Vicarii de Tharston, in Com. Norf. natus apud Braken in eodem Com.

educatus per biennium in *Ædibus paternis* apud Tackleston, sub Mag<sup>ro</sup> Browne, deo per quadrien. in Scholâ publicâ apud Scarning, sub Mag<sup>ro</sup> Brett, postremo in Scholâ publicâ Cantuariensi sub Mag<sup>ro</sup> Talbot, annos natus 17, admissus est Oct. 5, Pens. Minor sub tutelâ Mag<sup>ri</sup> Smith, et solvit pro ingress. 3s. 4d.”

<sup>d</sup> Locked the outer door of his rooms.

<sup>e</sup> I have received another version of the story, which some may prefer:—*Master of*

At last he was summoned before the Dean of his College—a worthy man, but weak and formal—for non-attendance at chapel, and had an imposition set him—to <sup>A.D. 1751.</sup> translate a paper of the “Spectator” into Greek. He duly performed the task, taking considerable pains with it; but, instead of bringing his translation (as he well knew duty required) to the *imposer*, he intimated to him that he had delivered it to the College tutor, who had the reputation of being a good Grecian. This Mr. Dean construed into an unpardonable insult, and he ordered the delinquent, as in cases of the gravest complexion, to be summoned before the Master and Fellows of the College. The charge being made and proved, Thurlow was asked what he had to say in defence or extenuation of his conduct? “Please your worships,” said he, “no one respects Mr. Dean more than I do; and, out of tenderness to him, I carried my exercise to one who could inform him whether I had obeyed his orders.” This plain insinuation that the Dean was little acquainted with the Greek tongue was the more galling as being known to be well-founded, and was considered by him an enormous aggravation of the original injury. He denounced it as a flying in the face of all authority, and foretold that the discipline of the College was at an end if they did not now proceed with the utmost severity. In conclusion, he declared that “*rustication* would only be laughed at by the offender, and that *expulsion* was the only adequate punishment.”

There was no denying that the offence was a serious one, but considerable sympathy was felt for the young gentleman, who, although his future greatness was little dreamed of, was known to possess social good qualities, and to evince excellent abilities when he chose to exert them. In mitigation, they likewise remembered the dash of absurdity about Mr. Dean which had often made him the butt of the combination room. In particular, Smith, the tutor (afterwards head of the house), put in a good word for the culprit, and, to avoid setting a brand upon him which might ruin him for life, proposed that he should be permitted to remove his name from the College books, and that no other proceedings should be taken against him. Notwithstanding the stout resistance of the Dean, this suggestion was adopted. Thurlow gratefully acquiesced, and thus left Cambridge without a degree.<sup>f</sup>

*Caius*: “Mr. Thurlow, I never look out of window, Sir, but I see you looking out of this window but I see you passing under it.” *it.*”

*Thurlow*: “And I never pass under this <sup>f</sup> In a communication respecting Lord

Notwithstanding his irregularities, there can be no doubt that he derived great benefit from his residence there. He had occasional fits of severe application; and, always having a contempt for frivolity, when he seemed to be idle he was enlarging his stock of knowledge and sharpening his intellect by conversing with men of strong sense and solid acquirements.

Among the strange vicissitudes of life, it did so happen that the refractory disciple, thus discarded from the bosom of Alma Mater, reached the highest civil dignity in the state; and it is pleasant to relate, that, when presiding on the woolsack, he recollected the friendly interference of Dr. Smith, and caused him to be appointed chancellor of the diocese of Lincoln.

It is even said, that he afterwards handsomely made atonement to "Mr. Dean." The story goes, that he had had an earlier quarrel with this functionary, who had interrupted him, rather sharply, with the question, "Pray, sir, do you know to whom you are speaking?" bidding him to recollect that he was in the presence of no less a person than the DEAN OF THE COLLEGE. This hint was not lost upon Thurlow, who then, and ever after, began and interlarded every sentence he addressed to him with the vocative "MR. DEAN;" this banter being doubly galling to the assertor of the title, as he could not consistently appear to be offended by it. When the flippant youth, who had been so nearly expelled from his college, had a little while held the Great Seal, the individual who had proposed and pressed his expulsion obeying a summons to wait upon him, the Chancellor's first salutation to him was, "Mr. Dean, how d'ye do? I am very happy to see you, Mr. Dean." "My Lord," he observed, somewhat sullenly, "I am no longer Mr. Dean." "That is as

Chancellor Thurlow, with which I have been honoured by Dr. Chapman, the learned Master of Caius, after stating that the traditions respecting him at Cambridge had become very faint, he says,—"I have always understood that, having set at defiance all Collegia authority, it became necessary to send him away. I have searched our records, and can find no recorded charge against him, or any sentence passed upon him; so I conclude his friends were advised to take him from College. He was admitted Oct. 5, 1748, and elected a scholar on Dr. Perse's foundation Oct. 12, 1748; this he held till Lady-

day, 1751, when his last stipend was paid him. I conclude, therefore, that his name was taken off our books about that time, as it does not appear in our list of scholars at Mich. 1751."

A learned friend of mine, now in a judicial station, writes to me—"When I visited Brighton in my first Cambridge vacation Thurlow asked me of what College I was. 'Of Caius,' I replied, 'and I keep in the same rooma in which your Lordship is said to have kept.' 'I hope you will keep them,' was the reply. I did not then know how the ex-Chancellor had lost them."



you please ; and it shall not be my fault if the title does not still belong to you, for I have a deanery at my disposal, which is very much at your service, Mr. Dean.”<sup>g</sup>

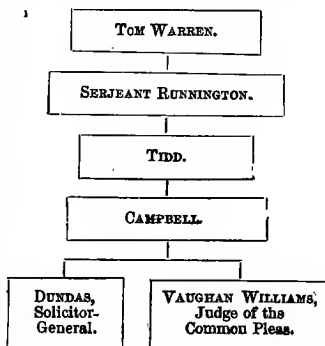
This generosity was very honourable to Thurlow, for (as he well knew) on his being made Chancellor his College met to deliberate whether they should not congratulate him (according to custom) on his elevation,—when Dr. Smith, the Master, objected, saying, “that it would be an insult, under the circumstances attending his Lordship’s removal from College,”—and the proposal fell to the ground.

His early destination for the bar remaining unaltered, he had been entered of the Inner Temple while an under-graduate at Cambridge;<sup>h</sup> and as soon as he quitted the University he took chambers, and began to keep terms by eating a certain number of dinners in the hall—this, since the disuse of “moots” and “readings,” being the only *curriculum* of legal education in England.

The voluntary discipline of a special pleader’s office was not yet established, although TOM WARREN, the great founder of the special pleading race, to whom I can trace up my pedigree, was then beginning to flourish.<sup>i</sup> The usual custom was, to place the aspirant for the bar as a pupil in the office of a solicitor, where he was supposed to learn how actions were commenced and conducted, with the practice of the different courts of law and equity. For young Thurlow was selected the office of Mr. Chapman, a very eminent solicitor, who carried on business in Lincoln’s Inn. Here he met, as a brother pupil, the celebrated William Cowper, author of “The Task.” The poet contracted a great friendship for him, and intro-

<sup>g</sup> This anecdote, which has often appeared in print, is probably considerably embellished ; but so much I know, from undoubted private authority,—that the Dean’s name was Goodrich ; that he accepted a College living in Dorsetshire ; that at the first visitation of the Bishop of Salisbury after Thurlow was Chancellor, Mr. Goodrich said to the Bishop, “I am sure I shall have some preferment from him, as I was the only fellow who dared to punish him ;” and that, the Bishop having mentioned this to the Chancellor, the old Caius man exclaimed, “It is true ! he is right, and a living he shall have !”

<sup>h</sup> He is thus described : “*Edwardus Thurlow, generosus, filius et hæres apparens Thomæ Thurlow, de Stratton St. Mary, in comitatu Norfolk, Clerici.*”



duced him to his cousin, Lady Hesketh, who lived in Southampton Row, then a fashionable quarter of the town. This gay house was much more agreeable to the taste of the brother-pupils than the smoky chambers of the attorney, smelling of musty parchment; and here they frivolously passed a great part of their time. Cowper, in a private letter written many years after, gives this account of their studies:—"I did actually live three years with Mr. Chapman, that is to say, I slept three years in his house; but I lived, that is to say, I spent my days, in Southampton Row, as you very well remember. There was I and the future Lord Chancellor constantly employed, from morning till night, in giggling, and making others giggle, instead of studying the law."

Thurlow, while denominated "a student of law," affected the character of an idler.<sup>k</sup> He was fond of society; without being addicted to habitual intemperance, he occasionally indulged in deep potations; and, although his manners were somewhat rough and bearish, as he had great powers of entertainment, his company was much courted by the loungers of the Inns of Court. Thus a good deal of his time was stolen from study, and he could not lay in such stores of learning as Selden and Hale, in the preceding century, who, for years together, read sixteen hours a day. But he by no means neglected preparation for his profession to the extreme degree which he pretended. He had an admirable head for the law, with a quick perception and a retentive memory; so that he made greater progress than some plodders who were at work all day long

I delight to think that my special pleading father, now turned of eighty, is still alive, and in the full enjoyment of his faculties. He lived to see four sons sitting together in the House of Lords—Lord Lyndhurst, Lord Denman, Lord Cottenham, and Lord Campbell. To the unspeakable advantage of having been three years his pupil, I chiefly ascribe my success at the bar. I have great pride in recording that when, at the end of my first year, he discovered that it would not be quite convenient for me to give him a second fee of one hundred guineas, he not only refused to take a second, but insisted on returning me the first. Of all the lawyers I have ever known, he has the finest analytical head; and if he had devoted himself to science, I am sure that he would have earned great fame as a discoverer. His disposition and his manners have made him universally beloved.—A.D. 1847.

<sup>k</sup> This affectation, which I believe has gone out of fashion like "hair powder" and "shorts," survived to my time. I knew an exceedingly clever young man, who, having taken a high degree at Cambridge, in reality studied the law very assiduously, but who pretended to be idle, or to read only books of amusement. Reversing the practice of the hero of the *PLEADER'S GUIDE*,—who, if "Hawke" or "Buzzard," or any attorney was approaching, conveyed the object of his affections into the coal-hole, and pretended to be reading the "*Doctrina Placitandi*,"—my friend, who was in the habit of poring over "Coke upon Littleton," had a contrivance by which, on a knock coming to the door, this black-letter tome disappeared, and there was substituted for it a novel, the name of which I may not mention. If he had lived, he would have conquered all such follies; but he was destined to an early grave.

and a great part of every night. He attended the remarkable trials and arguments which came on in Westminster Hall, and picked up a good deal of legal knowledge while he seemed only to be abusing the counsel and laughing at the judges. He would still shut himself up for whole mornings, barring his outer door,—when he not only would seize upon a classic, and get up the literature of the day, but make a serious attack on Littleton and Plowden. He did go almost every evening to Nando's coffee-house, near Temple Bar, and swaggered and talked loud there about politics and scandal, new plays and favourite actresses; but—if he had not taken too much of the punch which Mrs. Humphries, the landlady, was celebrated for compounding, and her fair daughter served—on returning to his chambers he would read diligently, before going to rest, till his candles turned dim in the morning light. His contemporary, Craddock, who was admitted to his entire intimacy, and from whom he concealed nothing, writes, “It was generally supposed that Thurlow in early life was idle; but I always found him close at study in a morning, when I have called at the Temple; and he frequently went no further in an evening than to Nando's, and then only in his *déshabillé*.”<sup>m</sup> It is quite clear, from his successful combats with the members of the “Literary Club,” and with the first lawyers in Westminster Hall, that he had effectually, though irregularly, devoted himself to literature and law. Let me, then, anxiously caution the student against being misled by the delusive hope which the supposed idleness of Thurlow has engendered,—that a man may become a great lawyer, and rise with credit to the highest offices, without application. Thurlow never would have been Chancellor if he had not studied his profession; and he would have been a much greater Chancellor, and would have left a much higher name to posterity, if he had studied it more steadily.

<sup>m</sup> Craddock's Memoirs, vol. i. 79. I presume the *déshabillé* meant that he entered the coffee-house without wearing a cut velvet suit and a sword, as lawyers still did when they went into fine company. Having reached extreme old age, he told his youngest nephew (from whom I received the statement) that “when young he read much at night; and that once, while at College, having been unable to complete a particular line in a Latin poem he was composing, it rested so

on his mind that he dreamed of it, completed it in his sleep, wrote it out next morning, and received many compliments on its classical and felicitous turn.”—This may remind the reader of the monk, who, being appointed to write the epitaph of Bede, and being much puzzled for an epithet, fell asleep, and in his dream was supplied by an angel with the following line:—

“Hæcæ jacent fossâ BEDÆ venerabilis ossa.”

On the 22nd of November, 1754, the benchers of his Society, who were supposed to direct his studies, and to examine into his proficiency, having ascertained that he had kept twelve terms by eating the requisite number of dinners in the Hall each term,—called him to the bar, vouching his sufficiency to advocate the causes of his fellow citizens in all courts, civil and criminal. He took his seat in the back rows of the Court of King's Bench, of which Sir Dudley Ryder was then Chief Justice, and he went the Western Circuit, of which Henley and Pratt were the leaders. But for several years he met with little success either in town or country. He had no family interest or connection to assist him; his reputation for idleness repelled business from his chambers, and he was too proud to *hug* the attorneys or to try to get forward by unworthy means.

When he had been a few years at the bar, he fell into pecuniary straits. His father had expected that fees would immediately flow in upon him, and proposed to withdraw, instead of increasing, the very moderate allowance which was his sole support. It is even said that the future Chancellor, although he practised a laudable economy, was actually reduced to the following stratagem to procure a horse to carry him round the circuit: He went to a horse-dealer, and said to him that he wished to purchase a good roadster—price being no object to him—but that he must have a fair trial of the animal's paces before he concluded the bargain. The trial being conceded, he rode off to Winchester, and having been well carried all the way round, but still without any professional luck, he returned the horse to his owner, saying that “the animal, notwithstanding some good points, did not altogether suit him.”

At last, fortune smiled upon him. By some chance he had a brief in the case of *Luke Robinson v. the Earl of*  
A.D. 1758. *Winchelsea*, tried before Lord Mansfield, at Guildhall. The leader on the opposite side was Sir Fletcher Norton, then the tyrant of the bar, who began by treating the unknown junior with his usual arrogance. This Thurlow resented with great spirit. They got into an altercation, in which Thurlow had with him the sympathies of the bar and the by-standers, and, with a happy mixture of argument and sarcasm, he completely put down his antagonist. The attorneys who had smarted much under Norton's despotic rule were

exceedingly delighted, and resolved to patronise the man who had shown so much courage and capacity."

Briefs in cases of a peculiar character did come in, and he was now known and talked of in the profession as one supposed to be possessed of great resources, and A.D. 1760. likely one day to make a figure; but still he had few constant clients, and little regular business. He had not credit for possessing much technical knowledge of the law, and he did not always exhibit that subordination which the leader expects in a junior counsel, and which indeed the interest of the client demands. In short, he disdained to "play second fiddle" to those whom he conceived inferior performers. There was no chance of his getting forward in the routine progress of professional advancement, and his friends were still under much apprehension of his ultimate failure.

It has often been said that he made his fortune by his great speech at the bar of the House of Lords in the Douglas cause. But this story is utterly demolished by the slightest attention to dates. The hearing of that celebrated appeal, in which he certainly gave the finest display of his forensic powers, did not come on till January, 1769; and before then he had long had a silk gown, he led his circuit, he was engaged in every important case which came on in Westminster Hall, and he had been returned to the House of Commons as member for Tamworth. However, his retainer as one of the counsel for the appellant in the Douglas cause truly had a very material and very favourable influence upon his destiny. The occurrence is said to have happened by the purest accident. According to legal tradition, soon after the decision of the Court of Session in Scotland, that the alleged son of Lady Jane Douglas was a supposititious child purchased at Paris, the question, which excited great interest all over Europe, was discussed one evening at Nando's coffee-house—from its excellent punch, and the ministrations of a younger daughter of the landlady, still Thurlow's favourite haunt. At this time, and indeed

"I was myself present when, under very similar circumstances, Toppingat once pushed himself into great business at Guildhall, by putting down Gibba, then Attorney-General—quoting the indignant description by Cæsar of the tyranny of Cæsar:—

"Why, man, he doth bestride the narrow world,  
Like a Colossus; and we petty men  
Walk under his huge legs and peep about  
To find ourselves dishonourable graves.  
The fault—is not in our stars,  
But in ourselves, that we are underlings."

when I myself first began the study of the law, the modern club system was unknown; and (as in the time of Swift and Addison) men went in the evenings for society to coffee-houses, in which they expected to encounter a particular set of acquaintance, but which were open to all who chose to enter and offer to join in the conversation, at the risk of meeting with cold looks and mortifying rebuffs. Thurlow, like his contemporary Dr. Johnson, took great pains in gladiatorial discussion, knowing that he excelled in it, and he was pleased and excited when he found a large body of good listeners. On the evening in question, a friend of his at the English bar strongly applauded the judgment against the supposed heir of the house of Douglas. For this reason, probably, Thurlow took the contrary side. Like most other lawyers, he had read the evidence attentively, and in a succinct but masterly statement, he gave an abstract of it to prove that the claimant was indeed the genuine issue of Lady Jane and her husband,—dexterously repelling the objections to the claim, and contending that there were admitted facts which were inconsistent with the theory of the child being the son of the French rope-dancer. Having finished his argument and his punch, he withdrew to his chambers, pleased with the victory which he had obtained over his antagonist, who was no match for him in dialectics, and who had ventured to express an opinion upon the question without having sufficiently studied it. Thurlow, after reading a little brief for a motion in the King's Bench, which his clerk had received in his absence, went to bed, thinking no more of the Douglas cause, and ready, according to the vicissitudes of talk, to support the spuriousness of the claimant with equal zeal. But it so happened that two Scotch law agents, who had come up from Edinburgh to enter the appeal, having heard of the fame of Nando's, and having been told that some of the great leaders of the English bar were to be seen there, had at a side table been quiet listeners during the disputation, and were amazingly struck with the knowledge of the case and the acuteness which Thurlow had exhibited. The moment he was gone they went to the landlady and inquired who he was? They had never heard his name before; but, finding that he was a barrister, they resolved to retain him as junior to prepare the appellant's case, and to prompt those who were to lead it at the bar of the House of Lords. A difficulty had occurred about the pre-

paration of the case; for there was a wise determination that, from the magnitude of the stake, the nature of the question, and the consideration that it was to be decided by English law Lords, the *plaidoyer* should be drawn by English counsel, and the heads of the bar who were retained—from their numerous avocations—had refused to submit to this preliminary drudgery.

Next morning a retainer, in “*Douglas v. The Duke of Hamilton*,” was left at Thurlow’s chambers, with an immense pile of papers, having a fee indorsed upon them, ten times as large as he had ever before received. At a conference with the agents (who took no notice of Nando’s), an explanation was given of what was expected of him,—the Scotchmen hinting that his fame had reached the “Parliament House at Edinburgh.” He readily undertook the task, and did it the most ample justice, showing that he could command, upon occasion, not only striking elocution but patient industry. He repeatedly perused and weighed every deposition, every document, and every pleading that had ever been brought forward during the suit; and he drew a most masterly case, which mainly led to the success of the appeal, and which I earnestly recommend to the law student as a model of lucid arrangement and forcible reasoning.

While so employed, he made acquaintance with several of the relations and connections of the Douglas family, who took the deepest interest in the result; and amongst A.D. 1761. others, with the old Duchess of Queensberry, the well-known friend of Gay, Pope, Swift, and the other wits of the reign of Queen Anne. When she had got over the bluntness of his manners (which were certainly not those of the *vieille cour*), she was mightily taken with him, and declared that since the banishment of Atterbury and the death of Bolingbroke, she had met with no Englishman whose conversation was so charming. She added that, being a genuine Tory, she had considerable influence with Lord Bute, the new favourite, and even with the young Sovereign himself, who had a just respect for hereditary right, lamenting the fate of the family whom his own had somewhat irregularly supplanted. On this hint Thurlow spoke, and, with the boldness that belonged to his character, said that “a silk gown would be very acceptable to him.” Her Grace was as much surprised as if he had expressed a wish to wear a silk petticoat—but upon an explanation that the

wished-for favour was the appointment to the dignity of King's Counsel, in the gift of the Government, she promised that it should be conferred upon him.

She was as good as her word. Lord Bute made no sort of difficulty when told that the number of King's Counsel might be indefinitely increased, bringing only a charge of 40*l.* a year on the public, with an allowance of stationery.<sup>o</sup>

Lord Northington, in whose department strictly the job was, boggled a little, for he knew nothing of Thurlow, except remembering him a noisy, briefless junior on the Western Circuit; and, upon inquiry, he found that neither from his standing nor his business had he any fair pretension to be called within the bar; but the Duchess of Queensberry contrived that George III., although he then had never seen the man to whom he was afterwards so much attached, should intimate to the Chancellor that this young lawyer's promotion would be personally agreeable to his Majesty himself, and all the Chancellor's objections instantly vanished. In Dec. 1761, Thurlow boldly doffed his stuff gown for the silk, renouncing his privilege to draw law papers, or to appear as junior counsel for any plaintiff.

In the following term he was elected a Bencher of the Inner Temple, but it was some time doubtful whether he would reap any other fruits from his new rank. Rival barristers complained much, that in the seventh year from his call, being known for nothing except his impertinence to Sir Fletcher Norton, he should be put over the heads of some who might have been his father; while the general consolation was, "that the silk gown could never answer to him, and that he had cut his own throat." He himself had no misgivings, and there were a few of more discernment who then predicted that he would eventually rise to the highest office in his profession.<sup>p</sup>

In truth, his success was certain. With the respectable share he possessed of real talents and of valuable acquirements, together with his physical advantages of dark complexion, strongly marked features, piercing eyes, bushy eyebrows, and sonorous voice, all worked to the best effect by an immeasur-

<sup>o</sup> With this went a certain number of bags to carry briefs; and when I entered the profession no man at the bar could carry a bag who had not received one from a King's

Counsel. All these perquisites were swept away by the Reform Ministry of 1830.

<sup>p</sup> See vol. v. p. 254 of Southey's edition of Cowper's Works.



able share of *self-confidence*,—he could not fail. This last quality was the chief cause of his greatness.

Of him, Lady Mary Wortley Montagu seems to have been speaking prophetically, if, according to her evident meaning, you substitute “*self-confidence*” for “*impudence*,”—which properly belongs only to a shameless impostor. “A moderate merit,” writes she, “with a large share of *impudence*, is more probable to be advanced than the greatest qualifications without it. The first necessary qualification is *impudence*, and (as Demosthenes said of action in oratory) the second is *impudence*, and the third still *impudence*. No modest man ever did, or ever will, make his fortune. Your friends, Lord Halifax, Robert Walpole, and all other remarkable instances of quick advancement, have been remarkably *impudent*. The ministry is like a play at court; there’s a little door to get in, and a great crowd without—shoving and thrusting who shall be foremost; people who knock others with their elbows, disregard a little kick on the shins, and still thrust heartily forwards, are sure of a good place. Your modest man stands behind in the crowd, is shoved about by every body, his clothes torn, almost squeezed to death—and sees a thousand get in before him, that don’t make so good a figure as himself.”

When Thurlow appeared in court with his silk robe and full-bottom wig—lowering frowns and contemptuous smiles successively passing across his visage as the arguments or the judgment proceeded—the solicitors could not behold him without some secret awe, and without believing that he was possessed of some mysterious powers which he could bring into activity in their service. When he had an opportunity of opening his mouth, he spoke in a sort of oracular or judicial tone, as if he had an undoubted right to pronounce the verdict or judgment in favour of his client. He appeared to think that his opponent was guilty of great presumption in controverting any of his positions; and, unless his cause was desperately bad (when he would spontaneously give it up), he tried to convey the notion that the judges, if they showed any disposition to decide against him, were chargeable with gross ignorance, or were actuated by some corrupt motive. By such arts he was soon in first-rate business, and all of a sudden—from extreme poverty—in the receipt of a very large income. I do not find that he was counsel in any celebrated cases before he was Solicitor-General; but Burrow

and the other contemporary reporters show that, during the eight following years, he argued many of the most important questions of law which came on for decision in Westminster Hall.

Hitherto he had taken little part in politics, and he seemed in a state of perfect indifference between the two parties, associating with the members of both indiscriminately—in conversation, sometimes speaking for and sometimes against the taxing of the colonies, and sometimes censuring and sometimes defending the prosecution of Wilkes. Now beginning to feel the stings of ambition, and resolved upon political advancement, it was necessary to choose a side. During Lord Chatham's second ministry, the Whigs had gone down in the world most lamentably, and they seemed to have lost for ever their illustrious chief. Toryism was decidedly favoured at Court, and had the ascendancy in both Houses of Parliament. Thurlow declared himself a Tory, and, on the interest of the party he

May, 1768.

had joined, in the new parliament which met in May, 1768, he was returned for Tamworth, since illustrated by a still more distinguished representative. To this party he most zealously and unscrupulously adhered till he was deprived of the Great Seal by the younger Pitt; but I am afraid that, in his heart, he cared little about Tory principles, and that he professed and acted upon them so long only to please the King and to aggrandize himself.

It might have been expected, from his impetuous and sanguine temper, that he would have been eager to gain parliamentary distinction as soon as he had taken his seat; but he had not yet selected his leader from the different sections into which the Tories were then subdivided, and he was cautious not to commit himself till it should be seen who gained the ascendancy.

Meanwhile the Douglas appeal, after eight years' preparation, came on to be heard at the bar of the House of

A.D. 1768.

Lords, and attracted a greater share of public attention than any political debate in either House. Thurlow led for the appellant, and, having for years devoted himself to the case, by his admirable pleading he showed what excellence he might have reached, and what solid fame he might have acquired, if his industry had been equal to his talent.

This was a very brilliant passage of his life, for he was not only rapturously applauded as an advocate, but he gained immense *éclat* for his courage and gentlemanlike deportment in

an affair of honour to which the cause gave rise. As counsel for Mr. Douglas, the appellant, he felt it his duty to animadvert with much severity on the conduct of Mr. Andrew Stewart, a gentleman of education and well esteemed in the world, who had been concerned as an agent in getting up the evidence and conducting the suit for the Duke of Hamilton. As soon as Thurlow had finished his first day's argument, Stewart sent him a challenge, requiring a hostile meeting next morning. Thurlow wrote back for answer, "that the desired meeting Mr. Stewart should have, but not till the hearing of the appeal was concluded." I believe he had said nothing against the challenger but what was justified by his instructions and the circumstances of the case—so that, according to professional etiquette, he might have applied for protection to the House of Lords, who would have treated the challenge as a contempt of their authority and a breach of privilege. When the hearing was over, the meeting actually did take place.

"On Sunday morning, January 14, the parties met with swords and pistols, in Hyde Park, one of them having for his second his brother, Colonel S——, and the other having for his, Mr. L——, member for a city in Kent. Having discharged pistols, at ten yards' distance, without effect, they drew their swords, but the seconds interposed and put an end to the affair."<sup>9</sup>

Mr. Stewart afterwards declared "that Mr. Thurlow advanced and stood up to him like an elephant."

I do not find that the honourable and learned member for Tamworth spoke in the House till the tremendous Jan. 31, crisis in January, 1770, upon the reappearance of 1770. Lord Chatham in full vigour, the dismissal of Lord Camden, the melancholy fate of Charles Yorke, and the formation of a new government to prosecute Wilkes and to tax the colonies. In the debate on the resolution moved by Mr. Dowdeswell, arising out of Luttrell being seated for Middlesex because Wilkes was alleged to be disqualified by his expulsion, "that by the law of the land, and the law and usage of parliament, no person eligible of common right can be incapacitated by a resolution of the House, but by an act of parliament only," Mr. Wedderburn supported it against Lord North, saying,

<sup>9</sup> Scots Magazine for 1769, vol. xxxi. p. 107. Edinburgh Evening Courant, 23rd Jan. 1769.

<sup>r</sup> A gentleman still alive, who remembers the duel well, says that, "Thurlow, on his

way to the field of battle, stopped to eat an enormous breakfast at a tavern near Hyde Park Corner."—(1st edit.) This was the Right Honourable Thomas Grenville, B. W. deceased.—(3rd edit.)

"The noble Lord asks 'will the House of Commons censure and disgrace itself?' Let me ask in my turn, will the House of Commons compose the minds of the people? Will they recover the good opinion and confidence of those whom some gentlemen have been pleased to call the *rabble*, the *base-born*, the *scum of the earth*?"—Then, covered with maiden blushes, thus spoke the honourable and learned member for Tamworth:—

"Sir, as the argument now seems to be carried on by questions, I shall ask in my turn, how came the House of Commons to determine who should sit among them formerly if they cannot determine who shall sit among them now? How came they to determine that the Attorney-General, the Solicitor-General, and the Masters in Chancery, could not sit here, because they might possibly be called upon to attend the House of Lords? and how came this determination to be acquiesced in till those persons were re-admitted by a subsequent vote?"

This is a very fair specimen of Thurlow's manner; for he never hesitated to resort to reasoning which he must have known to be sophistical, or to make a convenient assertion,—trusting largely to the ignorance of his audience. There was no analogy between determining whether by the usage of parliament a particular office was a disqualification to sit in the House of Commons, and enacting a new disqualification by a vote. Moreover, in point of fact, there never had been any votes, such as he supposed, for or against the general right of the Attorney and Solicitor-General and the Masters in Chancery to sit in the House. But he spoke in such a loud voice, and with such an air of authority, that no one ventured to contradict him, and he was considered a great acquisition by the Government.

The office of Solicitor-General immediately after became vacant by the resignation of Dunning, and Thurlow was joyously appointed to it.\*

\* 16 Parl. Hist. 804. A few days before, the House had heard the maiden speech of a very different man, the Honourable C. J. Fox. (16 Parl. Hist. 726.) This was a very memorable session in our party history. During the course of it came out Dr. Johnson's "False Alarm," and Edmund Burke's "Causes of the present Discontents," in the worst and best styles of the respective authors.

\* In a Life of Sir W. Blackstone prefixed

to his "Reports," it is said that he upon this occasion declined the office of Solicitor-General (vol. i. xvii.); but the offer was very faint—merely in compliance with an expectation which had been held out to him when he entered parliament, and it was accompanied with a promise of the first puisne judgeship which should become vacant. The "Doctor," as he was then called, was infinitely superior as a jurist to Thurlow, and was

## CHAPTER CLVI.

CONTINUATION OF THE LIFE OF LORD THURLOW TILL HE WAS MADE  
LORD CHANCELLOR.

THE new Solicitor-General escaped knighthood, now considered a disgrace." He was immediately obliged to present himself before his constituents at Tamworth, but he was <sup>A.D. 1770.</sup> re-elected without opposition, and he continued to represent this place till he was transferred to the Upper House.

He did not, by any means, disappoint expectation as a parliamentary partisan. While a representative of the people, he ever readily and zealously followed the instructions of the Government, as if he had been arguing in a court of law from his brief. He often displayed, in the debate, vigorous reasoning and manly eloquence,—and, when beaten, he could always cover his retreat with a broad assertion, a cutting sarcasm, or a threatening look.

The first occasion on which he distinguished himself, after becoming a law officer of the Crown, was in the debate on the

covered with literary glory by the recent publication of his "COMMENTARIES," which rescued our profession from the imputation of barbarism; and, while it contained a systematic digest of English law, was justly praised by Charles Fox for its style as a specimen of genuine Anglicism. But the Doctor, being returned for Westbury at the same time as Thurlow for Tamworth, entirely failed in the House of Commons. Being called forth to defend the Government on the Middlesex election, he wrecked his reputation as a constitutional lawyer; and George Grenville, reading the book, proved that he had contended for a different doctrine in debate from that which he had laid down in his Commentaries. Having published a pamphlet in his own defence, he got into a controversy with Junius, in which he was signally worsted;\* and his retreat from political life was now

earnestly desired both by himself and by his patrons. Thurlow was their man!

The Duke of Grafton's MS. Journal, after stating that Lord North behaved ill to his Solicitor-General, thus proceeds:—"Mr. Dunning was too high-minded to submit to any indignity. Not long after, he resigned his office, and was succeeded by Thurlow, a bold and able lawyer, and a speaker of the first rate, as well in parliament as at the bar. His principles leaned to high prerogative, and I fear his counsels brought no advantage to the King or the nation."

"George III., to keep up the respectability of the order, soon after insisted on the law officers of the Crown, as well as the Judges, submitting to it; and the same rule has since been observed, unless in the case of the sons of peers, who are "honourable" by birth.

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\* See Junius to Sir W. Blackstone, 29th July, 1769, and the four following letters.

motion for leave to bring in a bill to take away the power of filing *Ex Officio* Informations. This was opposed, in a very able and temperate speech, by Sir William De Grey, the Attorney-General, who showed, by clear authorities, that the power by law belonged to his office, and argued that there could be nothing unconstitutional in his being allowed, upon his responsibility, to bring a man to trial for sedition before a jury, who would decide upon the truth of the charge. Serjeant Glynn and others followed on the opposite side, contending that the power was liable to abuse; that it had been abused; and that a jury was no protection, on account of the fashionable doctrine now acted upon by Lord Mansfield and other judges, that "the jury had nothing to do with the question of libel or no libel; the criminality or innocence of the writing charged to be libellous being a pure question of law for the determination of the Court."—Thus answered Mr. Solicitor, in that rude, bantering, turbulent, impressive style of oratory which characterised all his parliamentary harangues, and which gained him such a reputation with his contemporaries:—

"Sir, however much a representative may be bound to express the voice of his constituents, I cannot greatly approve of that patriotism which prompts any member to adopt every popular rumour, and to assert the rumour as a fact, on his own authority. We ought to make a discreet selection, to distinguish between truth and falsehood, and not to swallow every vulgar prejudice. Therefore, I cannot applaud those oblique reflections which, in imitation of pamphleteers and newsmongers, some honourable members seem so fond of casting on this House. Such strokes may serve as stilts to raise the authors up to the notice of the mob, but will not, I am persuaded, add to their character in this assembly. The artifice is too gross to deceive. There is no lawyer, nor any other sensible person, within these walls who will not allow all the prosecutions lately carried on by the Attorney-General were extremely proper, if not necessary. Why, then, should we, when no real danger, no late encroachment presses, sally forth, like a band of Quixotes, to attack this windmill of a giant, this imaginary magician, who keeps none of our rights, none of our privileges, under the power of his enchantments? Not a single wight, not a single damsel, has he injured. All who pretend to dread him walk at large, ay, more at large, I suspect, than they ought. Our booksellers and printers have no reason to complain of being held in trammels. They are allowed every reasonable indulgence, and they carry it to its utmost limits. Shall we give licentiousness an ample range? For my own part, I cannot help considering the project as a crazy conceit, solely intended for gaining a little popularity; for men, however helpless, will spread the thin oar and catch the driving gale,"—the popular breeze, whose

murmur is so soothing to certain ears. But the wisdom and gravity of this House must perceive that the power at present lodged in the Attorney-General is necessary, as well for speedily punishing as preventing daring libels. If no other process is left but the common one of bringing the affair before a grand jury, the delinquent may in the meanwhile escape. No offender can be brought to justice. What is the consequence? The licentiousness of the press will increase. Crimes will multiply. Nothing will be published but libels and lampoons. The press will teem with scurrility and falsehood. The minds of the people will be misled and perverted by scandalous misrepresentations. The many-headed beast will swallow the poison, and the land will consequently be one scene of anarchy and confusion." He next applied himself to a recent conviction of a bookseller for the unauthorised act of a servant, and according to the report (which is scarcely credible) he worked himself up to say,—“In civil cases, the master is confessedly answerable for the faults of his servants. How comes he in criminal cases not to be subject to the same rule? The culprit was justly condemned, and will be justly punished.”<sup>x</sup> He then comes to handle the rights of juries in cases of libel after they had been solemnly vindicated (be it remembered) by Lord Camden, who had recently resigned the office of Chancellor, having held it for several years with general applause :—“Sir, the other charge is equally groundless and absurd. The construction of libels belongs by law and precedent to the judge and not to the jury, because it is a point of law which they are not competent to decide. If any other rule prevailed,—if the matter were left to the jury,—there would be nothing fixed and permanent in the law. It would not only vary in different counties and cities, according to their different interests and passions, but also in the minds of the same individuals, as they should happen at different times to be agitated by different humours and caprices. God forbid that the laws of England should ever be reduced to this uncertainty! All our dictionaries of decisions, all our reports, and Coke upon Littleton itself, would then be useless. Our young students, instead of coming to learn the law in the Temple and in Westminster Hall, would be obliged to seek it in the wisdom of petty juries, country assizes, and untutored mechanics. Adieu to precision, adieu to consistency, adieu to decorum! All would be perplexity, contradiction, and confusion. The law would be like Joseph’s coat, become nothing but a ridiculous patchwork of many shreds and many colours,—a mere sick man’s dream, without coherence, without meaning,—a wild chaos of jarring and heterogeneous principles, which would deviate farther and farther from harmony. Yet the prevention of this state is the crime with which our judges are charged! *O tempora! O mores!* to what are we at last come?”<sup>y</sup>

<sup>x</sup> This case is expressly provided for by a bill I had the honour to introduce into parliament, commonly called “Lord Campbell’s Libel Act,” 6 & 7 Vic. c. 96, s. 7, saving the

master from criminal responsibility for the unauthorised act of the servant.

<sup>y</sup> 16 Parl. Hist. 1144.

It does seem astounding to us that such a speech should be delivered, and tolerated, and applauded by the Ministers of the Crown after the Revolution, and in the latter end of the eighteenth century. It ought to be recorded, as showing the progress of public opinion and the improvements of the constitution in recent times. The matter in dispute—the Attorney-General's power to file criminal informations for libel—is very immaterial. He might safely be permitted, in all cases as public prosecutor, to put parties accused on their trial, and the institution of grand juries will be preserved in this country for its collateral benefits rather than as a safeguard to innocence against unjust accusation. There is no longer any disposition in Attorney-Generals to persecute the press; and if there were, no difficulty is ever experienced in inducing grand juries to find bills of indictment in any cases, however frivolous. Looking to the manner in which indictments for perjury and for conspiracy are used as instruments of revenge, vexation, and extortion, it would be a greater improvement upon our juridical institutions to enact that no such indictments shall be preferred without the sanction of a responsible public officer, than that the power of filing criminal informations should be entirely abolished.\* But the observations by which Thurlow defended it were most insulting to public liberty, and, if now offered by a law officer of the Crown under what is called a Tory or Conservative government, would insure his being disclaimed by his leader overnight, and dismissed from his office next morning.

But Mr. Solicitor Thurlow was so much applauded and encouraged, that on Serjeant Glynn's motion soon after, for an inquiry into the administration of criminal justice, he considerably exceeded his former doings; for he not only proposed a severe censure upon the mover, but plainly intimated an opinion that trial by jury should be abolished in all cases of libel, and that the liberty of the press should be in the exclusive guardianship of a judge appointed by the Crown:—

“If,” said he, “we allow every pitiful patriot thus to insult us with

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\* During my seven years' Attorney-Generalship I filed only one criminal information—against Feargus O'Connor for libels in the “Northern Star,” inciting the people to insurrection and plunder. There could not have been the smallest difficulty in having had an indictment found by the grand jury of the county of York; but I wished to

take upon myself the whole responsibility of the prosecution. Cobbett (I think with some justice) complained that the Attorney-General, instead of boldly prosecuting him by his own authority, had recourse to the subterfuge of an indictment,—and by this, among other topics, obtained an acquittal.



ridiculous accusations without making him to pay forfeit for his temerity, we shall be eternally pestered with the humming and buzzing of these stingless wasps. Though they cannot wound or poison, they will tease and vex. They will divert our attention from the important affairs of state to their own mean antipathies, and passions, and prejudices. I hope we shall now handle them so roughly as to make this the last of such audacious attempts. They are already ridiculous and contemptible. To crown their disgrace, let us inflict upon them some exemplary punishment. In deciding the question of libel, so many circumstances are at once to be kept in view, so many ponderous interests are to be weighed, so many comparisons to be made, and so many judgments formed, that the mind of an ordinary man is distracted, and confounded, and rendered incapable of coming to any satisfactory conclusion. None but a judge who has from his infancy been accustomed to determine intricate cases, is equal to such a difficult task. *If we even suppose the jury sufficiently enlightened to unravel those knotty points, yet there remains an insuperable objection. In state libels their passions are frequently so much engaged, that they may be justly considered as parties concerned against the Crown. No justice can therefore be expected from them in these cases.* In order to preserve the balance of our constitution, let us leave to the judge, as the most indifferent person, the right of determining the malice or innocence of the intention of the libeller. Much dust has been raised about civil and criminal actions; but to what purpose? Is not reparation to be made to the public for any injury sustained by the public, as much as to an individual? Is the welfare of the nation in general of less consequence than that of a single person? Where then is the propriety of making such a bustle about the malice or innocence of the intention? The injury done is the only proper measure of the punishment to be inflicted, as well as of the damage to be assessed.”<sup>a</sup>

This tirade against trial by jury, and confounding of civil injuries to individuals with crimes against the state, Jan. 23,  
1771. proved so agreeable to the higher powers, that at the end of a month Thurlow was promoted to the office of Attorney-General, in the room of De Grey, laid asleep on “the cushion of the Common Pleas;” and the Government was thereby supposed to be greatly strengthened.

When he made these speeches he was exceedingly exasperated against juries, by reason of the verdict in the case of *Rex v. Miller*. This was a criminal information for printing and publishing Junius’s celebrated letter to the King. It was contrived that the Solicitor-General, by reason of his supposed superior vigour, should conduct the trial on the part of the Crown. Notwithstanding his doctrine that the jury had

<sup>a</sup> 16 Parl. Hist. 1290.

nothing to do with the question whether the letter was a libel or not, he was at great pains in addressing them to impress them with an opinion of its criminality. *More suo* he thus discoursed of the liberty of the press:—"Undoubtedly the man who has indulged the liberty of robbing upon the highway, has a very considerable portion of it allotted to him. But where is the liberty of the man who is robbed? When the law is silent, reputation is invaded, tyranny is established, and an opportunity is given to venal writers to vent their malice for money against the best characters in the country. Do not, under pretence of protecting the liberty of those who do wrong, encourage them in the destruction of all laws human and divine." He then goes over the whole letter, sentence by sentence, denouncing its atrocity, and exclaiming, "For God's sake, is that no libel?" Yet he concludes by telling them, very peremptorily, that they have only to consider whether the defendant printed and published the letter, and by cautioning them not to imitate the conduct of the infamous author, who had become the accuser of his King, and, attacking all mankind, had not the courage to show his face or to tell his name. The clearest evidence was given that the defendant had printed and published the letter; but after a reply from Mr. Solicitor, more furious than his opening, the jury thought fit to find a verdict of *NOR GUILTY*—to the unspeakable delight of the assembled crowds, who rent the air with their acclamations.<sup>b</sup>—What added to his mortification was, that another prosecution against Woodfall for printing and publishing the same letter was conducted by Sir William De Grey the Attorney-General himself, who, displaying much more moderation and mildness, prevailed upon the jury to find a verdict of "Guilty of printing and publishing,"—although they added the word "only," on which account a new trial was granted.<sup>c</sup>

Thurlow's first appearance in the House of Commons as Attorney-General was on the memorable occasion when Crosby the Lord Mayor, and Oliver an alderman of London, were brought to the bar, having discharged a printer, arrested by order of the House for publishing debates, and having committed to custody the officer of the House who executed the arrest. Alderman Oliver, instead of making any apology, said, "he owned and gloried in the fact laid to his charge; he knew that whatever punishment was intended, nothing he could say would avert it: as for himself he was perfectly unconcerned;

and, as he expected little from their justice, he defied their power." A motion being then made to send him to the Tower, which was resisted by Sir George Savile and Serjeant Glynn, Mr. Attorney Thurlow, resorting to the *genus dicendi interrogans*, of which he was particularly fond, exclaimed,—

"Shall it be said, Sir, that this House is dishonoured in maintaining its confirmed privileges? Is not the generosity, is not the pride, of the House alarmed by so degrading a competition? Have not the members of this House as conscientious a veneration for oaths as the Mayor of London? Or are they afraid to punish his licentiousness, when he is not afraid to insult their authority? All that's man, all that's Briton in me, is firing in my bosom while I ask these simple questions! Well may our enemies say that we have sacrificed the dearest ties that bound us to our constituents, if we now suffer the whole body of the English Commons to be trod upon by the instruments of a despicable faction. Have we so long defended our privileges against the tyranny of kings, to fall at last before the turbulence of a seditious city-magistrate? Or has the constitution given us sufficient title to guard against the encroachments of the Crown, without means of crushing the ambition of an alderman?"

Mr. Attorney received a very severe chastisement from Dunning, who used language consistent with the just A.D. 1772. preservation of parliamentary privileges,—and to be for ever had in remembrance as a caution against the abuse of it:—

"The people will naturally inquire how we, their representatives, have executed our trust, and will as naturally execrate our names

‘If once we vilely turn that very power  
Which we derive from popular esteem  
To sap the bulwarks of the public freedom.’

Sir, the people have already opposed us by their magistrates, and they will oppose us farther by their juries;—though were we, in fact, as much respected as we are already despised,—as much esteemed as we are universally detested,—the establishment of tyranny in ourselves, who are appointed for no purpose but to repel it in others, would expose us to the abhorrence of every good Englishman. Let us, therefore, stop where we are; let us not justify oppression by oppression, nor forget our posterity if we are regardless of our country. Let even the abject principle of self, which actuates, I fear, too many of my auditors, for once operate in the cause of virtue."

Alderman Oliver was sent to the Tower by a majority of 170 to 38, and Crosby, the Lord Mayor, by a majority of

202 to 39;<sup>d</sup> but, by this struggle, the right of publishing parliamentary debates was substantially established, and it is therefore to be reckoned a remarkable æra in our constitutional history.\*

In the following session the Minister was much puzzled in meeting General Burgoyne's motion to censure the proceedings of Lord Clive in the East Indies, by which a new empire was added to the Crown of England. The considerate were aware that this extraordinary man deserved to have statues erected to him, but there was a public clamour against him which the Government was afraid to face. It was, therefore, left an open question. "Lord North himself spoke for the inquiry, but faintly and reluctantly,"<sup>f</sup> while the Solicitor-General was required to oppose it, and the Attorney-General to support it. The latter, who had no notion of ever fighting with muffled gloves, fell foul of his colleague, and of Indian conquest and Indian peculation:—

"The evils complained of," said he, "have been slurred over, or ingeniously palliated, by my honourable and learned friend. How can we better begin the work of Indian reform, which all admit to be necessary, than by resolving that the acquisitions here described are illegal? and how unjust, nugatory, and ridiculous would it be to come to such a determination without taking a retrospective view, and enforcing future regulations by present vigour! I admit that what is done in the heat and hurry of conquest, in the moment of revolution, is not to be examined too critically by the rules of school philosophy and the morality of the closet. But, Sir, these misdeeds are of a very different complexion—cool, deliberate transactions—treaties—negotiations—wars or no wars—the event the same in all—one general scene of rapine and plunder—nabobs dethroned—nabobs elected—pretended conventions with these children of power—these ephemeral sovereigns not for the advantage of the Company, but for the profit of individuals. Did John Duke of Marlborough make treaties with foreign powers, stipulating that himself, Prince Eugene, and the Grand Pensionary should be paid so and so?

<sup>d</sup> 17 Parl. Hist. 58—163.

\* The right never has been questioned since. There is still a foolish standing order of both Houses against publishing debates; but this is a mere dead letter, and the minister who would try to enforce it would be like Canute on his throne forbidding the flowing of the tide. Indeed, there are very few members who would now speak, if their speeches were not to be reported; and, after a division, proceedings are suspended till the reporters' gallery is re-opened.—The effectual

protection of the press and of the public would require an enactment that no one should be liable to an action or indictment for publishing a fair and *bonâ fide* report of the proceedings of either House. I introduced a clause to this effect into my Libel Bill; but though it was warmly supported by Lord Denman, it was opposed by Lord Brougham, and I could not carry it.

<sup>f</sup> Gibbon to Mr. Holroyd, 11th May, 1773. Miscell. Works, i. 469.

To what purpose produce cases, if they are not cases in point? The oppressions of Bengal have been as severe in time of peace as in time of war. Can this be right? And if wrong, why not inquire into it? And why inquire into it, if, when your inquiry is finished, it is to produce nothing? No mode of conduct can be so weak as that which only points out crimes, but takes no measure to punish them."

Thus ran on for a long time the powerful but turbid stream of his eloquence, and, notwithstanding a touching address from Lord Clive himself,—to the great embarrassment of the Government, the resolutions were all carried by a large majority.<sup>5</sup>

In the beginning of 1774, Thurlow had his first encounter with Horne Tooke—in which he was foiled. The parson was brought to the bar of the House on a charge of being the author of a libellous letter in the "Morning Advertiser," addressed to Sir Fletcher Norton, the Speaker; but he did not choose to plead guilty, and, there being no evidence to prove the authorship, Mr. Attorney boisterously supported an inquisitorial motion, that certain journeymen printers from the Morning Advertiser office should be examined to know from whom they received the manuscript. He thus concluded:—

"With respect to any cruel intention against Mr. Horne, I disclaim, for one, so foul an idea. It is well known that in my official character I want no author. The printer of a libel is enough for me, and I ever think it injudicious to look beyond the printer. I am not Mr. Horne's prosecutor, and, personally, I am not his enemy. Further than the cause of justice is concerned, his acquittal or conviction is to me a matter of utter indifference. If he be innocent, I shall be glad to see him discharged; but if he be guilty, I should be sorry to see a man escape with impunity who has daringly libelled the British Commons legally assembled in parliament."

Although Mr. Burke declared that "the motion—begot by folly, and nursed by despotism—was without a precedent in the annals of infamy," it was carried by a large majority:<sup>6</sup> but the printers, being called in, professed the most profound ignorance on the subject, and this time the parson walked off triumphantly.<sup>1</sup>

As the Grenville Act was passing, Thurlow opposed it, and truly foretold that the time would come when the decisions of the committees under it would be deemed as corrupt as those of the House in a body—the distinction in practice being only that the ballot gave a petitioner or sitting member belonging

to the Opposition the chance of having in the committee a majority of his own partisans;<sup>k</sup> whereas when the whole House sat as judges, he was almost sure to be "cast," and a decision against the ministerial candidate indicated an approaching change in the administration.

Soon afterwards Thurlow attacked and threw out the bill for the extension of copyright, then confined to the brief period of fourteen years. He denounced the booksellers as "a set of impudent monopolising men, who had raised a fund of 3000*l.* to file bills in Chancery against any person who should endeavour to get a livelihood as well as themselves, and pretending to have an exclusive right to publish all works from Homer's *Iliad* to Hawkesworth's *Voyages*—a mere composition of trash, for which they had the audacity to demand three guineas!"<sup>m</sup>

But the grand subject of parliamentary discussion now was the dispute with America. As may be supposed, Thurlow took a most zealous part, and uttered very violent language, against the colonists. He scorned the very notion of concession or conciliation; he considered "sedition" and "treason" (like *tobacco* and *potatoes*) the peculiar plants of the American soil. The natives of those regions he thought were born to be taxed; and when his friend Johnson's pamphlet, "*Taxation no Tyranny*," was published, he lamented that the passage was struck out which had been originally introduced as an answer to the objection that we had not previously taxed them:—"We do not put a calf into the plough—we wait till he is an ox."<sup>n</sup>

His first explosion was in the debate upon the Coercion Bill for regulating the government of Massachusetts Bay. A.D. 1775. Charles Fox having severely attacked it, saying that there was not an American but who must reject or resist the right of taxing them, and that the bill was a clear violation of charters, Mr. Attorney answered:—

"Sir, this Bill is adopted to give magistracy the requisite authority for the execution of the laws; being a measure of precaution, it carries with it no severity, unless the pleasure of disobeying is cheaply purchased by punishment. To say that we have a right to tax America,

<sup>k</sup> 17 Parl. Hist. 1072. I much fear that Sir R. Peel's Act on this subject will be found equally inoperative; for, though there is an attempt made by it to exclude chance, and deliberately to trim the balance, unequal weight is always thrown into one scale,—and

the degree to which the equipoise is destroyed becomes immaterial.

<sup>m</sup> 17 Parl. Hist. 1086, 1104.

<sup>n</sup> Johnson: "They struck it out either critically as too ludicrous, or politically as too exasperating."—*Boswell*, II. 327.

and never to exercise that right, is ridiculous; and a man must abuse his own understanding very much to whom that right can appear doubtful. We are told that we should ask them to tax themselves; but to procure a tax by requisition is a most ridiculous absurdity, the sovereignty being admitted to remain in this country. Their charter is subject to our legislative power; and whoever looks into it will see that no privileges were meant to be given them inconsistent with our right to legislate for them, and to tax them when we think they ought to be taxed."

Burke took him severely to task for these expressions; but so low was the Whig minority at this time, that, on the division, they could only muster 64 to 239.<sup>o</sup>

In the debate which took place on the address to the Crown shortly before hostilities commenced, Dunning having strongly objected to the term "Rebels," applied by Lord North to the Americans, Thurlow thundered out a dreadful denunciation against them, enumerating their alleged breaches of allegiance, and exclaiming, "Now, Sir, if this is not rebellion, I desire the honourable and learned gentleman to tell us what is rebellion." He maintained that they were "rebels;" that they ought to be treated as such; and that vigorous measures of coercion, before they had marshalled their armies, could alone save us from the ruin which would overtake us if their plan of independence were carried into effect.<sup>p</sup> This controversy was renewed in the debate upon the bill for cutting off the trade of the New England colonies, when, Dunning contending that the Americans were only defending their just rights, Thurlow declared "he had deliberately given a written opinion upon papers laid before him, that there was a *rebellion* in Massachusetts Bay;" but, the House being in committee, Sir Fletcher Norton, the Speaker, properly observed that "rebellion" was not a term known to the law, and that the only legal question was, whether there had been "a levying of war," amounting to *high treason*?<sup>q</sup>

Of all the orators on the Government side in the debates which ushered in the fatal strife, Thurlow was always the most violent and exasperating; and he seems to have been

<sup>o</sup> 17 Parl. Hist. 1313.

<sup>p</sup> 18 Parl. Hist. 225. Lord North soon afterwards, at a City dinner, having announced the receipt of intelligence of an advantage gained over the "Rebels," and being taken to task by Charles Fox and Colonel Barré, who were present, for applying such language to "our fellow-subjects in Ame-

rica," exclaimed, with the inimitable talent for good-humoured raillery which distinguished him, "Well, then, to please you, I will call them *the gentlemen in opposition on the other side of the water*."—This has been told me as a traditionary anecdote not hitherto in print.

<sup>q</sup> 18 Parl. Hist. 300.

actuated by the belief that it was desirable to goad the colonists into open resistance, as they might then be effectually crushed. It is amusing to find him declaring that he did not speak, on such occasions, as a lawyer; "that he always did, and always would, leave the lawyer in Westminster Hall, and be in that House only a member of parliament;"<sup>r</sup> by which, judging from his practice, he seemed to consider that he had the privilege, which has been practised by other Attorney-Generals, and by Chancellors too, in debate, to lay down for law what best suited his purpose at the moment. Of this he soon after gave a practical example, by declaring that there was no illegality in sending Hanoverian troops, without the authority of parliament, to garrison Gibraltar and Minorca, these places being no part of "this kingdom," so that the King might lawfully assemble a large army of foreigners in Guernsey, or Jersey, or the Isle of Man; whereas it seems quite clear, that by "this kingdom," in the Bill of Rights, must be understood "the British dominions."<sup>s</sup>

When the American Prohibitory Bill was discussed, he animadverted with scorn upon Mr. Burke's plan of conciliation. He added that, as Attorney-General, he had a right, by *scire facias*, to set aside every charter in America as forfeited; although he allowed that, in our present situation, such a process would be justly the object of ridicule.<sup>t</sup>

Having introduced a bill to suspend the Habeas Corpus Act, with a view to American traitors, he defended Feb. 1777. it from the objection that it might be put in force at home, by observing that "treason and rebellion were the native growth of America." However, by way of threatening and taunting the members of Opposition, he admitted there might be some individuals in England who, by giving information and encouragement to the Americans, might be considered guilty of treason by "adhering to the King's enemies;" but it was proper that they should be narrowly watched, and that the Government should be armed with powers to counteract their projects.<sup>u</sup>

When the debate arose on Sir Fletcher Norton's famous speech to the King, on the occasion of presenting a bill to augment the Civil List,<sup>x</sup> Thurlow, in trying to do what would

<sup>r</sup> 18 Parl. Hist. 609.

<sup>s</sup> Ib. 772, 776, 1332. He at last seems to have been ashamed of his bad law—saying, "it was idle to insist on the legality

or illegality of the measure."

<sup>t</sup> 18 Parl. Hist. 899.

<sup>u</sup> 19 Parl. Hist. 9, 19, 37, 39.

<sup>x</sup> "In a time of public distress, full of dif



be agreeable at Court, sustained a signal defeat. Mr. Rigby having animadverted upon the speech as disrespectful to the Crown, and not conveying the real sentiments of the representatives of the people, the Speaker appealed to the House, and threw himself upon their judgment. Mr. Fox moved a resolution, "that the Speaker on this occasion did express, with just and proper energy, the zeal of this House for the support of the honour and dignity of the Crown in circumstances of great public charge." Sir Fletcher Norton declared that he imagined he was acting in the faithful discharge of the trust committed to him; but if the House thought otherwise, he could not, and would not, remain longer in the chair. Nevertheless, Mr. Attorney-General Thurlow furiously opposed the motion, and contended that "the speech neither contained the sentiments of the House, *nor was it strictly supported by fact.*" But Fox gave him a severe castigation, and, pointing out the circumstance that the House had already unanimously thanked the Speaker for this speech, observed that the House would never consent to their own degradation and disgrace in the person of their Speaker, nor would submit to condemn on a Friday what they had highly praised on the Wednesday preceding. To Thurlow's extreme mortification, the motion was carried without a division, almost unanimously; and was followed by a fresh vote of thanks to Mr. Speaker "for his said speech to his Majesty."

Early in the following session of parliament, Mr. Attorney was placed in a very ludicrous situation, which, on account of his extreme arrogance—making him dreaded both by friends and foes—seems to have caused not only general merriment, but general satisfaction. Mr. Fox having moved that there be laid before the House certain papers, relating to what had been done under the Act for cutting off the Trade of the American Colonies, Thurlow rose and inveighed most bitterly against the motion, asserting that it could only proceed from a desire to countenance the "rebels," and contending that it could not be granted with any regard to the dignity of the Crown or the safety of the state. While he was still on his

ficulty and danger, their constituents labouring under burthens almost too heavy to be borne, your faithful Commons postponed all other business; and, with as much despatch as the nature of their proceedings would admit, have not only granted to your Majesty a large present supply, but also a very

great additional revenue,—great beyond example,—great beyond your Majesty's highest expense. But all this, Sir, they have done in a well-grounded confidence that you will apply wisely what they have granted liberally," &c.

legs, proceeding in this strain, news was brought that in the other House, the very same motion having been made by the Duke of Grafton, the Government had acceded to it, and it had been carried unanimously. The fact was soon known by all present—and Lord North, after showing momentary symptoms of being disconcerted, joined in the titter. Thurlow pausing, the Secretary to the Treasury whispered in his ear the intelligence of what had happened “elsewhere,” and the suppressed mirth broke out into a universal peal of laughter,—from the phenomenon that, once in his life, Thurlow appeared to be abashed. It was but for an instant. Quickly recovering himself, and looking sternly round at the Treasury bench, he exclaimed, “I quit the defence of administration. Let Ministers do as they please in this or any other House. As a member of parliament I never will give my vote for making public what, according to all the rules of policy, propriety, and decency, ought to be kept secret.”—“*However,*” says the Parliamentary History, “*this did not stifle the laugh, which continued for some time.*”<sup>a</sup> Lord North was frightened, and, standing more in awe of his Attorney-General than of his colleagues in the other House, he thought it best still to oppose the motion, and it was rejected by a majority of 178 to 80.<sup>a</sup>

We have no detailed account of any other speech of Thurlow respecting America while he remained a member of the House of Commons, but we know that his tone remained unaltered, and that when disasters began to multiply he imputed them all to the Ministers who had repealed the Stamp Act, and to the Opposition leaders, who paralysed the energies of the country by their spurious patriotism—insisting that, as the “rebels” had had recourse to arms, warlike measures of more vigour could alone be expected to decide the controversy.<sup>b</sup>

Before closing my account of his career as a representative of the people, I ought in justice to him to mention that he declared he would not oppose Sir George Savile’s bill for the relief of Roman Catholics, and that he went so far as to say “that he highly disapproved the law which debarred a parent from the noblest of all affections,—adopting the system of education which seemed best calculated for the happiness of his beloved offspring; while he would require some consideration before he could agree to Popish priests being allowed freely to exercise the functions of their religion.”<sup>c</sup>

<sup>a</sup> V. l. xix. 518.<sup>b</sup> Ib. 532.<sup>b</sup> Ib. 597.<sup>c</sup> Ib. 1140.

Let us now attend to his forensic efforts while he was at the head of the bar,—which, I think, are more creditable to him. In *Campbell v. Hall*, the Grenada case, upon <sup>A.D. 1774.</sup> the four-and-a-half per cent. duties, he delivered a most admirable argument in support of the power of the Crown to legislate for conquered countries; taking a luminous view of the different systems of laws to which our colonies are subject, according to the manner in which they were settled or acquired;<sup>d</sup>

In the Duchess of Kingston's case,—having proved that the collusive sentence which she had obtained in the Ecclesiastical Court, annulling her first marriage, <sup>A.D. 1776.</sup> though binding upon her, was not binding on the House of Lords when trying her for bigamy,—he thus sarcastically concluded :

“The sentence has deprived her of all conjugal claims upon Mr. Hervey; and we acknowledge it to be conclusive upon her, while we insist that it is merely void against all the rest of the world. She is therefore, according to us, a wife only for the purpose of being punished as a felon. These disappointments, these inconvenient consequences of guilt, are the bars which God and the order of nature have set against it; but they have not been found sufficient: it demands the interposition of public authority, with severer checks, to restrain it. Why is she thus hampered with the sentence she fabricated? Because she fabricated it; because justice will not permit her to allege her own fraud for her own benefit, nor hear her complain of a wrong done by herself. She displays to your Lordships not an anxiety to clear her injured innocence, but a dread of inquiry. Was this her solicitude to bring the question here? In such a Court, before so venerable an audience, we are to hear nothing pleaded against a charge of infamy but a frivolous objection to enter upon the trial.”

The plea being overruled, Thurlow proceeded to state the facts of the case against her. His proemium is in a better taste than he often displays:—

“My Lords, it seems to be matter of just surprise that, before the commencement of the last century, no secular punishment had been pro-

<sup>d</sup> 20 St. Tr. 312. On this and similar occasions he was ably assisted by his “devils,” Hargrave and Kenyon, who answered cases for him, got up special arguments, and enabled him to devote much of his time to parliament and to jovial society. Kenyon was amply rewarded for his services, being made Attorney-General, Master of the Rolls, and Chief Justice of the King's Bench. But poor Hargrave died neglected. He was to

be sure, with all his learning, hardly producible in any judicial office; and latterly his mind was diseased—insomuch that when he was brought to Lincoln's Inn to vote as a Bencher in the choice of a Preacher, and his vote was objected to, Jekyll said, that “instead of being deprived of his vote, he ought to be allowed two votes, for he was *one* *side himself*.”

vided for a crime of this malignant complexion and pernicious example. Perhaps the innocence of simpler ages, or the more prevailing influence of religion, or the severity of ecclesiastical censures, together with those calamities which naturally and necessarily follow such an enormity, might formerly have been found sufficient to restrain it. From the moment these causes ceased to produce that effect, imagination can scarcely figure a crime that calls more loudly for the interposition of penal legislation ; a crime which, besides the gross and open scandal given by it to religion, implies more cruel disappointment to the just and honourable expectation of the persons betrayed by it ; which tends more to corrupt the purity of domestic life, and to loosen those sacred connections and close relations designed by Providence to bind the moral world together ; or which may create more civil disorder, especially in a country where the title to great honours and high office is hereditary. My Lords, the misfortunes of individuals, the corruption of private life, the confusion of domestic relations, the disorder of civil succession, and the offences done to religion, are suggested as aggravations not of the particular case now under trial, but as miseries likely to arise from the example of the crime in general ; and are laid before your Lordships only to call your attention to the course and order of the trial, and that there may be no misconception to mitigate the atrocity of such a violation of law, or to heighten the dangers with which it threatens the peace of families and the public welfare. The present case, to state it justly and fairly, is stript of much of its aggravation. The advanced age of the parties, and their previous habits of life, would reduce many of these general articles of criminality and mischief to idle topics of empty declamation. No part of the present complaint turns upon any ruin brought on the blameless character of injured innocence ; or to any disappointment occasioned to just and honourable pretensions ; or to any corruption supposed to be introduced where modesty before prevailed. Nor should I expect much serious attention from your Lordships if I should urge, as aggravations of the lady's guilt, the danger of entailing an uncertain condition upon a helpless offspring, or the apprehension of a disputed succession to the illustrious house of Pierrepont. But your Lordships will likewise bear in mind, that every mitigation which might have induced you to pity an unfortunate passion in younger bosoms is entirely cut off here. If it be true that the sacred rights of matrimony have been violated, I am afraid it must also appear that dry lucre was the whole inducement—cold fraud the only means to perpetrate the crime. In truth, the evidence (if I am rightly instructed) will clearly and expressly represent it as a matter of perfect indifference to the prisoner which husband she adhered to, so that the profit to be drawn from this marriage, or from that, was tolerably equal. The crime, if less revolting in some particulars, becomes only more odious in others. The facts which I will now, with all simplicity, detail, form a case which it would be quite impossible to aggravate, and which it will be extremely difficult to extenuate."

He then gave an interesting narrative of the two marriages,

and of the sham sentence of nullity, excusing the Ecclesiastical Court by the quotation—

“For oft though wisdom wake, suspicion sleeps  
At wisdom's gate, and to simplicity  
Resigns her charge; while goodness thinks no ill  
Where no ill seems——.”

After the verdict of *Guilty*, Thurlow, in a strain of rather coarse banter, argued that the Duchess was liable either to be hanged or to be branded with a hot iron, although he must have been aware that she was entitled, by her privilege of peerage, for her first felony to go scot free.\*

His next encounter in a court of justice was with a much more formidable antagonist. On news arriving of the battle of Lexington, a meeting to “sympathise with <sup>A.D. 1777.</sup> the Americans” was held in the City; and Parson Horne, who superintended it, drew up a minute of its proceedings, which he published in the newspapers,—stating that a subscription was to be raised “to be applied to the relief of the widows, orphans, and aged parents of our beloved American fellow subjects, who, faithful to the character of Englishmen, preferring death to slavery, were for that reason only inhumanly murdered by the King's troops at Lexington, in the province of Massachusetts.” For this an *ex officio* information had been filed against him, which came on for trial at Guildhall, before Lord Mansfield and a special jury. Mr. Horne was his own counsel, and entered the court resolved to proceed to the utmost lengths in assailing both the Judge and the prosecutor; but he was new to his situation, and did not display much of the cleverness for which he was justly celebrated—while Thurlow fought on his own dunghill, and throughout the whole day had the advantage over him.† The

\* 20 St. Tr. 355—651. By 4 & 5 Vict. c. 22, passed after the trial of Lord Cardigan, it is enacted, that when an indictment is found against a Peer he shall have no privilege except “to be tried by his Peers, and that upon conviction he shall be liable to the same punishment as the rest of her Majesty's subjects.”—No invidious distinction of the peerage now exists, except the action of *Scan. Mag.* I intended to include the abolition of this in my Libel Bill; but I found the manner of doing it very difficult, for the action rests on statutes which merely forbid the telling of lies, and the spreading of false reports of great men—which it would appear rather absurd to repeal.

† If a defendant under such circumstances has the requisite qualifications for defending himself, he has a far better chance of acquittal being his own counsel, than with the most eloquent man at the bar to speak for him; but the self-defence is generally so unskilful that it is sure to end in a conviction. I only recollect two instances to the contrary—Mr. Perry obtained a signal triumph over Sir Vicary Gibbs, and Mr. Cobbett over Sir Thomas Denman. But the latter defendant only succeeded from the experience he had acquired from several failures. In his first contest with Sir James Scarlett he was very feeble and awkward, and he fell an easy prey to his powerful antagonist.

most amusing scene during the trial was when the defendant insisted on calling the Attorney-General as his witness: but Lord Mansfield held that none of the questions proposed to be put to him were relevant. The jury, with little hesitation, brought in a verdict of *Guilty*.

Thurlow, in a manner which astonishes a modern Attorney-General, eagerly pressed that the defendant, who was an ordained clergyman of the Church of England, who was a scholar and a gentleman, should be set in the pillory. Speaking in aggravation of punishment,—after observing that any fine would be paid by a seditious subscription, and that imprisonment would be “a slight inconvenience to one of sedentary habits,” he thus proceeded:—

“Pillory, my Lords, is the appropriate punishment for this species of offence, and has been so these two hundred years—not only while such prosecutions were rank in the Star Chamber, but since the Star Chamber was abolished, and in the best times since the Revolution. Tutchin was set in the pillory by Chief Justice Holt. That libeller, to be sure, complained of being subjected to the punishment which he said ought to have been reserved for fraudulent bakers. He conceived that the falsifying of weights and measures was a more mechanical employment than the forging of lies, and that it was less gentleman-like to rob men of their money than of their good name. But this is a peculiarity which belongs to the little vanity which inspires an author, and it made no impression upon Sir John Holt, whose name will live with honour as long as the English constitution. Government cannot exist unless, when offences of this magnitude are presented to a court of justice, the full measure of punishment is inflicted upon them. Let us preserve the restraint against licentiousness provided by the wisdom of past ages. I should have been very sorry to have brought this man before you, in a case attended with so many aggravations, if your Lordships were not to show your sense of his infamy by sentencing him to an infamous punishment.”

The sentence, however, was only a fine of 200*l.* and a year's imprisonment; and even Dr. Johnson, inquiring about it, said, “I hope they did not put the dog in the pillory; he has too much literature for that.”<sup>g</sup> During this imprisonment the defendant wrote his letter to Mr. Dunning on the “English Particle,” which he enlarged into his “*Επεα πτερόεντα*, or the Diversions of Purley.”—Notwithstanding Thurlow's vigorous push to set him in the pillory (as we shall see), they were subsequently reconciled; and the ex-Chancellor, visiting the

<sup>g</sup> Bos. iii. 382. Johnson added, “Were I would adopt several of Mr. Horne's etymologies.”

ex-Libeller in his retreat at Wimbledon, discussed with him questions of philology.

Towards the close of the American war, Mr. Attorney-General Thurlow filled a great space in the public eye, and was considered the chief prop of the Government. It is certainly difficult for us to understand his high parliamentary reputation. I have already noticed all his reported speeches of the slightest consequence while he remained a member of the House of Commons, and none of them contain any thing like logical reasoning or statesmanlike views, or even good declamation. The defectiveness of the printed reports cannot explain the disappointment we feel, for we have most admirable specimens of contemporary speakers—not only of Burke, who carefully edited his own orations, but of Lord Chatham, Dunning, and Lord North,—and even his colleague the Solicitor-General appears in the “Parliamentary History” to much greater advantage. He must surely have displayed qualities which we cannot justly appreciate, to have been so favourably introduced into the graphic sketch of the House of Commons at this period, from personal observation, by the author of *THE DECLINE AND FALL OF THE ROMAN EMPIRE*:—“The cause of government was ably vindicated by Lord North, a statesman of spotless integrity, a consummate master of debate, who could wield with equal dexterity the arms of reason and of ridicule. He was seated on the Treasury bench between his Attorney and Solicitor-General, the two pillars of the law and state, *magis pares quam similes*; and the minister might indulge in a short slumber, whilst he was upholden on either hand by the majestic sense of Thurlow, and the skilful eloquence of Wedderburn.”<sup>b</sup> Whatever others might think of him, he gave high satisfaction to his employers.

A.D. 1778.

Above all, the King was excessively delighted with his strong and uncompromising language respecting the Americans, and long placed a greater personal confidence in him than he had done in Lord Bute, or than he ever did in any other minister—perhaps with the exception of Lord Eldon.

The Government being hard pressed in debate, though strong in numbers in the House of Lords, and the general inefficiency of Lord Bathurst producing serious inconvenience to the public service, it was resolved to accept the offer he had made to resign his office of Chancellor,—and there was not a moment's hesitation about his successor.

<sup>b</sup> Gib. Mem. i. 146.

## CHAPTER CLVII.

CONTINUATION OF THE LIFE OF LORD THURLOW TILL THE RESIGNATION OF LORD NORTH AND THE FORMATION OF THE SECOND ROCKINGHAM ADMINISTRATION.

THE transfer of the Great Seal took place at a council held at June 19, St. James's, on the 3rd of June, 1778, when Thurlow 1778. was sworn in Lord Chancellor, and a member of the Privy Council; and on the first day of the following Trinity Term, after a procession from his house in Great Ormond Street to Westminster Hall, he was installed in the Court of Chancery with all the usual solemnities.<sup>i</sup> At the same time he was raised to the peerage by the title of BARON THURLOW, of Ashfield, in the county of Suffolk.

A striking homage was now paid to his success by Cowper the poet, who, though sincere and disinterested, exaggerated his merits, and was blind to his imperfections, from a tender recollection of their intimacy when brother pupils and idlers in the office of Mr. Chapman, in Lincoln's Inn :—

"Round Thurlow's head in early youth,  
And in his sportive days,  
Fair Science pour'd the light of truth,  
And Genius shed his rays.

"See," with united wonder, cried  
Th' experienc'd and the sage,  
'Ambition in a boy supplied  
With all the skill of age!

"Discernment, eloquence, and grace  
Proclaim him born to away  
The balance in the highest place,  
And bear the palm away.'

"The praise bestow'd was just and wise;  
He sprang impetuous forth  
Secure of conquest, where the prize  
Attends superior worth.

<sup>i</sup> "3rd June, 1778. Memorandum.—The Right Honourable Henry Earl Bathurst, Lord High Chancellor of Great Britain, delivered the Great Seal to his Majesty in Council. His Majesty, on the said 3rd day of June, delivered it to Edward Thurlow, Esq., with the title of Lord Chancellor of Great Britain, who was thereupon, by his Majesty's command, sworn of the Privy Council, and likewise Lord High Chancellor of Great Britain and took his place at the board accordingly; and on Friday, the 19th of June,

went in state from his house in Great Ormond Street to Westminster Hall, accompanied by the Judges, Serjeants, &c., where, in their presence, he took the oaths of allegiance and supremacy, and the oath of the Lord Chancellor of Great Britain, the Master of the Rolls holding the book, and the Deputy Clerk of the Crown reading the said oaths. Which being done, the Solicitor-General moved that it might be recorded, and it was ordered accordingly."—*Cr. Off. Min. Book*, No. 2, f. 25.



"So the best courser on the plain  
Ere yet he starts is known,  
And does hut at the goal obtain  
What all had deem'd his own."

The new Chancellor did not disappoint public expectation, and, as long as he enjoyed the *prestige* of office, he contrived to persuade mankind that he was a great judge, a great orator, and a great statesman,—although I am afraid that in all these capacities he was considerably overrated, and that he owed his temporary reputation very much to his high pretensions and his awe inspiring manners.

He was tolerably well qualified to preside in the Court of Chancery from his natural shrewdness, from the knowledge of law which he had acquired by fits and starts, and from his having been for some years in full practice as an equity counsel. But he had never devoted himself to jurisprudence systematically; he was almost entirely unacquainted with the Roman civil law, as well as with the modern codes of the continental nations; and, unlike Lord Nottingham, Lord Hardwicke, and the Chancellors whose memory we venerate, upon his elevation to the bench he despised the notion of entering on a laborious course of study to refresh and extend his juridical acquirements. Much engrossed by politics, and spending a large portion of his time in convivial society or in idle gossip with his old coffee-house friends, he was contented if he could only get through the business of his court without complaints being made against him by the suitors, or any very loud murmurs from the public. Permanent fame he disregarded or despised. He was above all taint or suspicion of corruption, and in his general rudeness he was very impartial: but he was not patient and pains-taking; he sometimes A.D. 1778— dealt recklessly with the rights which he had to 1792. determine; and he did little in settling controverted questions, or establishing general principles. Having been at the head of the law of this country nearly thirteen years, he never issued an order to correct any of the abuses of his own court, and he never brought forward in parliament any measure to improve the administration of justice.

He is said to have called in Hargrave, the very learned editor of Coke upon Littleton, to assist him in preparing his judgments, and some of them show labour and research; but he generally seems to have decided off-hand, without much anxiety about former authorities.

Frequently he employed Mr. Justice Buller, a singularly acute special pleader and *nisi prius* lawyer, to sit for him in the Court of Chancery. On resuming his seat, he would highly eulogise the decisions of "one whom he, in common with all the world, felt bound to respect and admire." But being privately asked "how Buller had acquired his knowledge of Equity?" "Equity!" said he, "he knows no more of it than a horse; but he disposes somehow of the cases, and I seldom hear more of them."

So fiercely did he spring on a luckless counsel or solicitor, that he generally went by the name of the "Tiger;" and sometimes they would, out of compliment, call him the "Lion,"—adding that Hargrave was his "*provider*."

His habit of profane swearing he could not always control, even when on the bench; and those who were sitting under him, near the Mace and the Purse, occasionally heard a muttering of strange oaths. Yet some supposed that, in reality, he had a great deal of good-humour under an ostentatiously rough exterior, and of this he would occasionally give symptoms. It is related that once, at the adjournment of the court for the long vacation, he was withdrawing without taking the usual leave of the Bar, when a young barrister exclaimed in a stage whisper—"He might at least have said d——n you!" The Chancellor, hearing the remark, returned and politely made his bow.<sup>k</sup>

Thurlow is handed down to us, as a Judge, by Brown, Vesey junior, and Dickens. It may be partly their fault, but he certainly appears in their Reports to little advantage. His judgments are not only immeasurably inferior to those of such a consummate master of juridical reasoning as Sir William Grant, but are not by any means equal to those of Pepper Arden, for whom Thurlow was accustomed to testify such ineffable contempt.

I will bring before the reader a few of his decisions which appear to me to be the most important and interesting. In *Bishop of London v. Fytche*,<sup>m</sup> the question arose, "whether bonds given by an incumbent to the patron of a living for resigning on request, are lawful?" In the Court of Chancery, Thurlow gave a strong opinion in favour of their legality, insisting that they not only were not simoniacal, but that they were not contrary to public policy, and that, being pro-

<sup>k</sup> Hawkins's Memoirs. ii. 312.

<sup>m</sup> 1 Brown, 96

perly controlled by a court of equity, they might be very salutary. He expressed a contrary opinion, however, when the question came before the House of Lords. The Judges, being consulted, were divided upon it, and, the Bishops voting with him, there was a reversal by a majority of 19 to 18; so that general resignation bonds have since been unlawful.<sup>a</sup>

In *Cason v. Dale*, Lord Chancellor Thurlow held, upon the "Statute of Frauds," which requires that a will of lands shall be subscribed by the witnesses in the *presence* of the testator, that a will was well executed where a lady who made it, having signed it in an attorney's office, got into her carriage, and the carriage was accidentally backed by the coachman opposite to the window of the office, so that, if she had been inclined, she might have let down the glass of the carriage, and seen the witnesses subscribe the will."

In *Jones v. Morgan*,<sup>p</sup> in which the industry of Mr. Hargrave may be pretty clearly traced, the Chancellor obtained great glory by overturning a decision of Lord Hardwicke, and holding that the same construction is to be given to limitations in wills of trusts and legal estates. He likewise delivered a very elaborate judgment in *Pultney v. Earl of Darlington*,<sup>q</sup> (which could hardly have been composed by Hargrave, for he was counsel in the cause,) establishing the doctrine now recognised, that where either land is directed to be converted into money, or money to be laid out in land—from the moment the direction might have been executed the property receives the impression either of personalty or realty, with all the incidents of either estate. This case being brought before the House of Lords by appeal, the decree was affirmed.

Thurlow's decision in *Ackroyd v. Smithson*<sup>r</sup> was the foundation of Lord Eldon's fortune at the bar, and may be said to have made him Lord Chancellor. A testator ordered his real and personal property to be sold, and the fund to be divided among certain legatees. Two of them died in his lifetime. The question was, what was to become of their shares? Sir

<sup>a</sup> Brown's Parl. Cas. ii. 211. See *Fletcher v. Lord Sondes*, 3 Bingham, 594; 7 & 8 Geo. IV. c. 25, s. 1; 9 Geo. IV. c. 25, s. 94.

<sup>p</sup> 1 Brown, 39; Dickens, 586. But it is necessary that the testator should be in such a position as that, by possibility, he may have seen the witnesses sign the will if so disposed; *Doe v. Manifold*, 1 Maule & Selw. 204; although if he might see them from any

one part of a room in which he was, and there be no evidence in what part of the room he was placed, it will be presumed that he was where he might have seen the witnesses. *Winchelsea v. Wauchope*, 3 Russ. 444.

<sup>q</sup> 1 Brown, 206.

<sup>r</sup> 1b. 223.

<sup>r</sup> 1b. 503.

Thomas Sewell, M.R., held, against the argument of Mr. Scott, who, after being above a year briefless, had a guinea brief for the heir at law, that the whole should be distributed among the surviving legatees. Upon an appeal brought by other parties, Mr. Scott had another guinea brief to consent, on the part of the heir at law, to an affirmance; but, having a strong opinion that he was right, he argued the case so zealously and ably, that Thurlow was much struck with the manner of the unknown counsel, and, after high compliments to him, reversed the decree,—deciding that the shares of the deceased legatees were lapsed legacies, and that so much of them as arose out of the real estate should go to the heir at law.

In *Newman v. Wallis*,<sup>a</sup> our Chancellor most unaccountably held, with great positiveness, that where a plaintiff claims an estate as an heir at law, and prays a discovery, it is not a good plea *that he is not heir at law*; but in the subsequent case of *Hall v. Noyes*,<sup>b</sup> he was driven to retract this opinion, and it is now fully settled that such a plea is good, although a defendant cannot, by a plea denying the principal fact, evade a discovery of the collateral facts connected with it.

In the *Countess of Strathmore v. Bowes*,<sup>c</sup> where the lady had settled all her property to her separate use, meaning to marry one man, and then, by a stratagem, was induced to marry another who was ignorant of the settlement, Thurlow established the settlement against the husband; observing, in his characteristic manner,—

“As to the morality of the transaction, I shall say nothing. They seem to have been pretty well matched. Marriage in general seems to have been Lady Strathmore’s object; she was disposed to marry any body, so that at the same time she might keep her fortune to herself. But the question is, has there been a fraud upon the husband? It is impossible for a man marrying in the manner Bowes did to come into Equity and talk of fraud.”

*Ex parte O’Reilly*<sup>d</sup> was the first of a long string of opera-house cases, which have perplexed Chancellors ever since. The Italian Opera House, in the Haymarket, having been burnt down, a patent for thirty-one years had been granted to the petitioner to enable him to build a new theatre upon the site of Leicester House, in Leicester Square; and the question was, whether the Great Seal should be put to this

<sup>a</sup> 2 Brown, 143.<sup>b</sup> 3 Brown, 489.<sup>c</sup> 1 Vesey jun., 22.<sup>d</sup> Ib. 112.

patent? The grant was opposed by the patentees of all the other theatres, and by incumbrancers and others who had an interest in them. After a hearing of four days, Thurlow said :—

“All parties seem to agree that an opera house is a proper establishment in this country, but you will not expect me to determine which of these plans is the best. My office is to see that the King is not deceived, and that he does not part with any authority which he ought to retain. Many considerations require that public establishments of this nature should be in the hands of the King. In the time of James I., as in the time of Queen Elizabeth, masques and such diversions were under the direction of the Crown—executed partly by the Lord Chamberlain, but more immediately by the Master of the Revels. On the same notion the patent was granted by Charles II. to Killigrew and Davenant, and by Queen Anne to Collier and Sir Richard Steele. But this patent is bad, as it contains covenants with the Lord Chamberlain, and it does not sufficiently connect the grant with the property. It is calculated to create innumerable law suits. I should soon be obliged to direct the Master to take the management of the opera house into his own hands—a task for which, I may venture to say, all the Masters, notwithstanding their great learning and experience as officers of this Court, are as unfit as myself. Dismissing the petition, I shall make a fit representation on the subject to his Majesty, who, I am sure, will do justice to the parties and to the public.”

Thurlow generally disdained to resort to the practice, now very common, and found highly beneficial, of delivering written judgments; but I find one judgment, which the Reporter says, “his Lordship having read, gave it to me,”—and I do very much suspect that it is the composition of his “devil,” for the style of it is very quiet and moderate, and it enters a good deal into the civil law. The case is *Scott v. Tyler*, in which the important question arose, whether a condition annexed to a legacy, “that the legatee shall not marry without the consent of her mother,” be void, as being in restraint of marriage, so that the legacy shall be considered absolute?—

“To support the affirmative,” he said, “innumerable decisions of this court were quoted; but the cases are so short, and the dicta so general, as to afford me no distinct view of the principle upon which the rule is laid down, or, consequently, of the extent of the rule, or of the nature of the exceptions to which its own principle makes it liable.” Having given the history of the decisions on the subject in this country,

and stated how it is viewed by the canon law, he proceeds:—"By the civil law the provision of a child was considered a debt of nature, the payment of which the prætor would enforce; insomuch, that a will was regarded as *inofficious* by which the child was disinherited without just cause. By the positive institutions of that law, it was also declared, *Si quis cælibatûs, vel viduitatis conditionem hæredi, legatoriove injunxerit; hæres, legatoriusve è conditione liberi sunt; neque eo minus delatam hæreditatem, legatumve, ex hac lege, consequantur*. In ampliation of this law, it seems to have been well settled in all times, that if, instead of creating a condition absolutely enjoining celibacy or widowhood, the matter be referred to the advice or discretion of another, particularly an interested person, it is deemed a fraud on the law, and treated accordingly; that is, the condition so imposed is holden for void. On the other hand, the ancient rule of the civil law has suffered much limitation in descending to us. The case of widowhood is altogether excepted by the NOVELS; and injunctions to keep that state are made lawful conditions. So is every condition which does not directly or indirectly import an absolute injunction to celibacy. Therefore, an injunction to ask consent, or not to marry a widow, is not unlawful. A condition to marry or not to marry Titius or Mœvia is good, for this reason, that it implies no general restraint; besides, in the first case, it seems to have in view a bounty to Titius or Mœvia. In like manner, the injunction which prescribes due ceremonies, and the place of marriage, is a lawful condition, and is not understood as operating the general prohibition of marriage. Still more is a condition good which only limits the time to twenty-one, or any other reasonable age, provided this be not evasively used as a covered purpose to restrain marriage generally."

After proceeding in this tone at great length,—without abusing any body, or uttering any thing approaching to imprecation,—he dryly decides, that the young lady, having married at eighteen without her mother's consent, was not entitled to the legacy. Perhaps, in the delivery, a few strong expletives were interpolated, to avoid the suspicion that the real author was the meek and placid Hargrave.<sup>†</sup>

In Thurlow's time there were heavy complaints of delays in Chancery. These, no doubt, arose in some measure from the peculiar nature of equity suits, which, often being between a multiplicity of parties, and depending on complicated inquiries, are not capable of being rapidly settled like a single issue of fact in an action at law,—but there seems reason to think that arrears accumulated from the want of industry and

<sup>†</sup> 2 Dickens, 712.—My conjecture on this subject has been substantially verified by discovering that Hargrave was counsel for the winning party in *Scott v. Tyler*, and that

at the Chancellor's request he furnished him with a copy of his carefully composed argument.—*Judicial Exercitations*, p. 179.—(Note to 3rd edition.)

exertion on the part of the Judge. He was rather pleased to be called away to Cabinets and to the House of Lords, and he would not make that sacrifice of time out of court to the consideration of pending cases without which no Judge can do justice to himself or the suitors. He went on uncomfortably with his Master of the Rolls, except for the short time that Sir Lloyd Kenyon held that office; he was at variance with Sir Thomas Sewell; and he contemptuously refused to co-operate with Pepper Arden, whose appointment he had strenuously opposed,—saying to Mr. Pitt, “I care not whom the devil you appoint, so that he does not throw his own damned wallet on my shoulders, instead of lightening my burthen.”

To finish the sketch of Thurlow as a Judge, it may be convenient to state here that he gave considerable satisfaction in disposing of writs of error and appeals in the House of Lords. In all English cases, he summoned the Judges, and was guided by their opinion. The Scotch cases sometimes puzzled him, as he was neither a great feudalism nor civilian, but his own practice in Scotch appeals when at the bar had rendered him tolerably familiar with the procedure of the Court of Session: after the able arguments at the bar, he could generally guess at the conclusion with considerable confidence; and he had always in reserve the comfortable resource of affirming without giving any reasons.

The most important case which the House decided by his advice was *Bruce v. Bruce*; in which Major Bruce, a son of the famous Abyssinian traveller, having been born in Scotland, and having died in India in the service of the East India Company, the question arose by what law the succession to his personal property, which was partly in India and partly in England, was to be governed? The Court of Session decided that the law of England should prevail as the *lex loci rei sitæ*. Lord Thurlow was of opinion that the judgment was right—but only on the ground that the intestate had died domiciled in India. When he agreed with the decision of the court below, he had hitherto simply declared that the judgment was affirmed. On this occasion, however, he spoke as follows:—

“As I have no doubt that the decree ought to be affirmed, I would not have troubled your Lordships by delivering my reasons, had I not been pressed with some anxiety from the bar, that if there was to be an

affirmance, the grounds of the determination should be stated,—to prevent its being understood that the whole doctrine laid down by the Judges of the Court of Session had the sanction of this House. The true ground upon which the cause turns is the Indian domicile. The deceased was born in Scotland ; but a person's origin is only one circumstance to be regarded in considering by what law the succession to his personal property is to be regulated. A person being at a place is, *primâ facie*, evidence that he is domiciled at that place. It may be rebutted, no doubt. A person may be travelling ; on a visit ; he may be there for a time, on account of health or business. A soldier may be ordered to Flanders, and an ambassador may be sent to Madrid, where they may remain many months ; England is still their domicile or home. But if a British man settles as a merchant abroad, and carries on business there, enjoying the privileges of the place, and dies there, his original domicile is gone ; although, had he survived, he might possibly have returned to end his days in his native country. Let it be granted that Major Bruce meant to return to Scotland ; he then meant to change his domicile, but he died before actually changing it. All the discussion we have had respecting the *lex loci rei sitæ* is immaterial. Personal property, in point of law, has no locality ; and, in case of the decease of the owner, must go wherever, in point of fact, situate, according to the law of the country where he had his domicile. To say that the *lex loci rei sitæ* is to govern the succession to personal as it does to real property, the *domicilium* of the deceased being without contradiction in another country, is a gross misapplication of the rules of the civil law and *jus gentium* ; though the law of Scotland, on this point, is constantly asserted to be founded upon them.” \*

Thurlow took his seat in the House of Lords rather irregularly on the 14th of July, 1778,—to which day parliament had been prorogued at the conclusion of the preceding session. The Houses now met not for the despatch of business, but only to be again prorogued : and, without a speech from the throne stating the causes of the summons, I doubt whether any business whatever can properly be done. Perhaps Thurlow ought to have merely occupied the woolsack, as Speaker—but the Journal of this day contains the following entry :—

“The Lord Viscount Weymouth signified to the House that his Majesty had been pleased to create Edward Thurlow, Esq., Lord High Chancellor of Great Britain, a Baron, by the style and title of Baron Thurlow, of Ashfield, in the county of Suffolk : whereupon his Lordship, taking in his hand the purse with the Great Seal, retired to the

\* Robertson's Law of Personal Succession, 121. A still more important case from Scotland, before Lord Thurlow, on the conflict of laws, was *Hog v. Lashley* (ib. 126) ; but as

he simply affirmed, without saying a word upon any of the important questions which it involved, I must reluctantly pass it over without further notice.



lower end of the House, and, having there put on his robes, was introduced between the Lord Osborne and Lord Amherst, also in their robes: the Yeoman Usher of the Black Rod, Clarencieux King at Arms (who in the absence of Garter officiated on this occasion) in his coat of arms, carrying his Lordship's patent (which he delivered to him at the steps before the throne), and the Earl of Clarendon (who officiated in the ceremony in the absence of the Lord Great Chamberlain of England) preceding. His Lordship (after three obeisances) laid down his letters patent upon the chair of state, and from thence took and delivered then to the clerk, who read the same at the table," &c. The entry goes on to state the writ of summons, the taking of the oaths, &c., and that his Lordship "was afterwards placed on the lower end of the Barons' bench, and from thence went to the upper end of the Earls' bench, and sat there as Lord Chancellor, and then his Lordship returned to the woolsack. Clarencieux King at Arms delivered in at the table his Lordship's pedigree pursuant to the standing order."

The prorogation then took place. At the opening of the session of parliament, on the 26th of Novem-  
Dec. 7,  
1778.  
 ber following, the Lord Chancellor, on his knee, delivered to George III. the royal speech, announcing that France had gone to war, and was assisting the revolted colonies in America.<sup>a</sup> He abstained from taking part in the debate which followed upon the address; but on Lord Rockingham's motion a few days after, respecting the proclamation issued by the English commissioners in America, he made his maiden speech as a Peer, and showed that he had not changed his disposition with his rank. He at once poured red-hot shot into the whole of the Opposition. He began with Hinchcliffe, Bishop of Peterborough, who had inveighed against the employment of savages in carrying on the war in America,—had objected to an item in the army extraordinaries, "scalping-knives and crucifixes for the Indians,"—had declared that, if such were the Christianity we were to teach them, it would be better that they should never hear of the name of Christ,—and was understood to lament the "fruitless desolation" which such measures produced.—*Lord Chancellor*: "The Right Reverend Prelate talks of 'fruitless desolation,'—an expression which carries no meaning, and is neither sense nor grammar. It is not supported by any figure of speech, or by any logic, or even by any vulgarity that I ever heard of. 'Fruitless desolation,' my Lords, is rank nonsense. I was not aware before that 'desolation' might be 'fruitful.' To negative what is not to be found in

<sup>a</sup> 19 Parl. Hist. 1277.

nature, and what the imagination cannot conceive, is a species of oratory not only incongruous, but so nonsensical that it admits of no answer." He next addressed himself to an observation of the Duke of Grafton, who had said that Ministers carried their measures by corruption: "This," he said, "was well calculated for the temporary purpose of debate, as it required no proof, and admitted of no refutation; and this was all that was intended by it; but he hoped that it would have a contrary effect, and that an impartial nation would honour and respect those against whom nothing could be brought except such indiscriminate and ill-founded charges." He then attacked the Duke of Richmond and Lord Shelburne with equal acrimony, and concluded by declaring that, "having in vain appealed to the reason and good sense of America, the only course was to endeavour to influence by their fears those who could not be wrought upon by the nobler principles of affection, generosity, or gratitude."—The Bishop of Peterborough, explaining, said the expression he had used was "fruitless evils," not "fruitless desolation;" although he contended that a desolation, from which no good consequences were ever promised or expected, might well be termed a "fruitless desolation."—The *Lord Chancellor*: "I beg pardon of the Right Reverend Prelate, if I have mistaken his words. But, my Lords, I am equally at a loss to know what sort of 'evils' are 'fruitful'—except of evil. Are some evils productive of good? Let the Right Reverend Prelate more distinctly classify his evils; for at present I am at a loss to distinguish between evils that are fruitless and evils that are fruitful." He had an explanation almost equally uncourteous with Lord Shelburne; but he received a calm and dignified rebuke from Lord Camden, who asserted the import of the proclamation in question to be—"We have tried our strength; we find ourselves incapable of conquest, and as we can't subdue we are determined to destroy." As yet the Opposition in the Lords could only muster 37 to 71.<sup>b</sup>

Thurlow spoke several times on the bill for allowing Keppel to be tried by a naval court-martial on shore,—allowing  
A.D. 1779. it to pass pretty quietly after a few sarcasms on the Admiral and his supporters.<sup>c</sup> He then caused considerable dissatisfaction in the House, by at first refusing to put a motion which had been regularly made for the erection of a bar between the woolsack and the steps of the throne,—on the

<sup>b</sup> 20 Parl. Hist. 1—46

<sup>c</sup> Ib. 94, 95, 102, 105, 110.

ground that the object of it was to accommodate members of the House of Commons,—which was contrary to the standing order for the exclusion of strangers;—but he was forced to put it, and to negative it by the ministerial majority.<sup>d</sup> On other occasions, about this time, his manner gave offence to several Peers, and by way of apology he declared “that he never presumed to rise and control the sense of the House, but in instances in which the form of their proceedings was about to be departed from.”<sup>e</sup>

He was becoming highly unpopular; and as his demeanour on the woolsack was very much like that of Lord Chancellor Jeffreys, if a proper course had been pursued to check him, he might have been put down as effectually; but, luckily for him, instead of being reprimanded for his arrogant manners, he was taunted with his mean birth,—an opportunity was offered to him, which he daringly and dexterously improved, of exalting himself, and the suppressed rebellion ended in his establishing a permanent tyranny over the whole body of the Peerage. We have a very lively account of this scene from an eye-witness:—

“At times,” says Mr. Butler in his *Reminiscences*, “Lord Thurlow was superlatively great. It was the good fortune of the reminiscient to hear his celebrated reply to the Duke of Grafton during the inquiry into Lord Sandwich’s administration of Greenwich Hospital. His Grace’s action and delivery, when he addressed the House, were singularly dignified and graceful; but his matter was not equal to his manner. He reproached Lord Thurlow with his plebeian extraction and his recent admission into the Peerage: particular circumstances caused Lord Thurlow’s reply to make a deep impression on the reminiscient. His Lordship had spoken too often, and began to be heard with a civil but visible impatience.<sup>f</sup> Under these circumstances he was attacked in the manner we have mentioned. He rose from the woolsack, and advanced slowly to the place from which the Chancellor generally addresses the House;<sup>g</sup> then, fixing on the Duke the look of Jove when he grasped the thunder, ‘I am amazed,’ he said in a loud tone of voice, ‘at the attack the noble Duke has made on me. Yes, my Lords,’ considerably raising his voice, ‘I am amazed at his Grace’s speech. The noble Duke cannot look before him, behind him, or on either side of him, without seeing some noble Peer who owes his seat in this House to successful exertions in the profession to which I belong. Does he not feel that it is as honourable to owe it to these, as to being the accident of an acci-

<sup>d</sup> 20 *Parl. Hist.* 470, 473.

<sup>e</sup> *Ib.* 588.

<sup>f</sup> I conjecture that he had given unbrage

by his dictatorial tone much more than by the frequency of his speeches.

<sup>g</sup> ‘The top of the Dukes’ bench.’

dent? To all these noble Lords the language of the noble Duke is as applicable and as insulting as it is to myself. But I don't fear to meet it single and alone. No one venerates the Peerage more than I do;—but, my Lords, I must say that the Peerage solicited me, not I the Peerage. Nay, more, I can say, and will say, that as a Peer of Parliament, as Speaker of this right honourable House, as Keeper of the Great Seal, as guardian of his Majesty's conscience, as Lord High Chancellor of England, nay, even in that character alone in which the noble Duke would think it an affront to be considered—as a MAN—I am at this moment as respectable—I beg leave to add, I am at this moment as much respected—as the proudest Peer I now look down upon.<sup>h</sup> The effect of this speech, both within the walls of Parliament and out of them, was prodigious. It gave Lord Thurlow an ascendancy in the House which no Chancellor had ever possessed: it invested him in public opinion with a character of independence and honour; and this, though he was ever on the unpopular side in politics, made him always popular with the people.”<sup>i</sup>

I myself have seen striking instances in a public assembly of the cowardice of brave men, who forget that before an effort of moral courage arrogance quails. From this time every Peer shrunk from the risk of any encounter with Thurlow, and he ruled the House with a rod of iron—saying and doing what he pleased, and treating his colleagues with very little more courtesy than his opponents. He was soon described as

“That rugged Thurlow, who, with silent scowl,  
In surly mood at friend and foe would growl.”

The Parliamentary History says, that on the next measure which was brought forward “the Lord Chancellor spoke with peculiar feeling, force, and argument;” but I cannot help suspecting that his speech was an example of grave irony, and that in his heart he was *laughing*, and wished the discerning to *know that he was laughing*, at the suspicious claims to high blood of some of those who despised the descendant of the “Carrier.” This was Bishop Barrington's bill “for the more effectual discouragement of the crime of adultery.” A Howard—the Earl of Carlisle—having ably opposed it

<sup>h</sup> According to the account given to me, many years ago, by another gentleman of great accuracy, likewise present, Thurlow said, “I shall go into no laboured defence of the course I have pursued and shall continue to pursue, but shall content myself with simply putting it to your Lordships,—‘Who holds his seat in this House by the more honourable

tenure—the man who is summoned to the peerage by his Sovereign as the reward of a life passed in serving his country, or he who inherits a seat in this House which was bestowed as the wages of the prostitution of his great grandmother?’”

<sup>i</sup> Reminisc. i. 142.

on the ground that adultery, though a deadly sin, was not a subject for criminal legislation, he was answered with great seeming warmth by Lord Thurlow, who had not only been noted for youthful profligacy, but, now the first magistrate under the Crown, and Keeper (as he boasted) of the King's conscience, was openly living with a mistress, by whom he had a family of children. He said, "The matter immediately before the House was, whether or no they would take into consideration a method for more effectually preventing the crime of adultery? If they rejected the bill, they pronounced in form that they were not disposed to put any restraint at all upon this abominable practice. The plain question was, 'Do you, or do you not, think it worth your while to interpose by some method for the prevention of a crime that not only subverts domestic tranquillity, but has a tendency, by contaminating the blood of illustrious families, to affect the welfare of the nation in its dearest interests?' The bill was for the '*protection*' of every husband and father in the kingdom; *but it concerned their Lordships more than any other order in the state.* He begged the House to recollect that the purity of the blood of their descendants was, and must necessarily be, an essential consideration in the breasts of all Peers. Every attempt to preserve the descent of Peers unstained merited their immediate attention: for his part, he declared he saw *the importance of the bill to the Peerage* so clearly, that if he had the blood of forty generations of nobility flowing in his veins, he could not be more anxious to procure for it that assent which it deserved from their Lordships."<sup>k</sup> No puritan could have more vehemently supported the ordinance passed in the time of the Commonwealth, by which fornication was made felony, and on a second conviction was to be punished with death. "A knavish speech sleeps in a foolish ear," and this *persiflage* of the Lord Chancellor was taken in good earnest by a large majority of their Lordships: but the bill which they passed was thrown out by the Commons—where the professed "*protection*" was considered less necessary."<sup>m</sup>

Some alarm being excited by the discontents of Ireland, which soon after led to the assertion of independence by an

<sup>k</sup> 20 Parl. Hist. 594.

<sup>m</sup> Ib. 601. Its absurdities were forcibly pointed out by Charles Fox, who, in allusion to Thurlow's indecent sarcasm on the

"Peeresses," pointed out the extreme hardship to which the female sex were exposed in not being allowed to sit in parliament, and having no representatives there.

armed force, Lord Shelburne brought forward certain propositions for repealing the laws which restricted the intercourse between the two islands, so that both might have a common interest in prosecuting commerce. Thurlow strongly opposed what he called "a dangerous innovation;" and, his colleagues showing some symptoms of giving way, he declared "that though he did not wish in general to take the lead, nor pretend to determine, on matters of state, which were foreign to his studies and habits of life, on the present occasion he would act for himself, and meet the motion with a direct negative." This course was adopted, and he had a majority of 61 to 32.<sup>a</sup>

At the opening of the session in Nov. 1779, after the continuing disasters of the war, the Marquis of Rockingham, with good reason, and, at all events, regularly and constitutionally, having moved an amendment to the address, praying for a change of councils and councillors, it was thus opposed by the Lord Chancellor:—

"Allowing all the suggestions of the noble Marquis to be as true as they are unfounded, would it be just—would it be fair, either in point of form or fact, to condemn, without hearing or inquiring what the parties accused have to say in defence or extenuation? I do not rise as an advocate for any man, or description of men—much less for the persons supposed to compose the present Administration;—but I stand up for the honour of the House. If Ministers have acted improperly, injudiciously, corruptly, or wickedly, the very presumption that they have done so entitles them to claim a trial. I will suppose they are culprits. That is enough for my argument; they are entitled to the benefit of the laws. The higher the charge,—the heavier the punishment,—the more caution is required in bringing home guilt to the accused. But to come by a side-wind—without notice—without evidence, and at once to condemn,—is a mode of proceeding which I cannot sanction. It is an outrage on the constitution; it is contrary to candour—to law—to truth, and to every requisite of substantial justice."

Lord Camden made a forcible reply to this "novel logic," but the amendment was negatived by a majority of 82 to 41.<sup>a</sup>

The Chancellor most resolutely set his face against all the economical and constitutional reforms which  
 April, 1780. Burke, Dunning, and the Whigs were now able to carry through the Lower House, where upon such subjects they had a majority. But their bills soon received the *coup de grâce* on reaching the House of Lords. The

<sup>a</sup> 20 Parl. Hist. 675.

<sup>a</sup> Ib. 1023—1092.

bill to disqualify Government contractors from sitting in the House of Commons, although it had passed there almost unanimously, he threw out by a majority of 92 to 51, saying that "the fact that the bill had in its favour the general wishes of the people, was worth just so much as it would pass for in their Lordships' estimation."<sup>p</sup>

There being a motion in the House of Lords against the employment of the military to put down Lord George Gordon's riots, the Chancellor, in a speech not confined to assertion and vituperation, but containing an unusual display of reasoning, legal learning, and historical research, proved, in a very able and satisfactory manner, that citizens with arms in their hands still enjoy the rights, and are liable to the duties, of citizens, and are bound, like other citizens, to assist in preserving or restoring the public tranquillity. He likewise gained considerable credit with the judicious for his continued support of Sir George Savile's bill to relax the penal laws against Roman Catholics; although, so little progress had the Peers yet made in the school of religious liberty, that, to please them, he said, "he was by no means prepared to carry toleration so far as Mr. Locke;"—and while Roman Catholics were to be permitted to teach music and dancing, he introduced a clause to prohibit them from keeping boarding-schools, so that they might never have Protestant children under their management.<sup>q</sup>

Soon after, a private affair of honour, wholly unconnected with any parliamentary proceeding, was brought before the House by the Chancellor, as a breach of privilege. The Earl of Pomfret, erroneously supposing that a gamekeeper, whom he had discharged, had been countenanced by the Duke of Grafton, wrote some very intemperate letters to his Grace, and insisted on fighting him either with sword or pistol. Thurlow, on the rumour of what had happened, moved that they should attend, in their places, in the House: and, both parties being heard, it was resolved that the behaviour of the Duke of Grafton had been highly laudable and meritorious; and Lord Pomfret, being made to kneel at the bar, was informed that he had been guilty of "a high contempt of the House." Afterwards the Lord Chancellor, with three-cocked hat on head, administered to him a thundering reprimand.<sup>r</sup> Nowadays, I conceive, the House would refuse to take cognizance of such a quarrel. The supposed breach

<sup>p</sup> 20 Parl. Hist. 433.<sup>q</sup> 22 Parl. Hist. 759, 764.<sup>r</sup> Ib. 855, 866.

of privilege would be the same if the challenger were a commoner, although this circumstance would render the interference more preposterous.

In the beginning of the year 1781, Lord Thurlow spoke several times, and at great length, on the rupture which then  
A.D. 1781. took place with Holland. The question being one of public law upon the construction of treaties, he strangely said that "his pursuits and habits by no means fitted him for such an undertaking,—so that he could only treat the subject with the portion of common sense and experience Providence had endued him with, and familiarise it so as to bring it on a level with his own poor understanding." Perhaps he maliciously insinuated that, to make himself intelligible to his audience, it was necessary he should adapt his discourse to the meanest understandings.\* But the truth is, that he himself had read very little of the law of nations; that he was very little acquainted with the rights of peace and war; and that his boasted superiority was in pretension, not in knowledge.†

He succeeded better in justifying the military execution of Colonel Haynes, a British officer taken fighting for the Americans;‡ and in crushing an attempt to censure Lord George Germaine's elevation to the Peerage, by the title of Viscount Sackville,—when he first refused to put the question, and afterwards denounced as unjust the general orders issued by the late King against that officer after his court-martial.‡

But Lord North's Administration was now in the agonies of dissolution; and Thurlow began to coquet a little with the Opposition.\* Lord Cornwallis had capitulated,—America was lost,—hostilities had commenced with France, Spain, and Holland,—Gibraltar was besieged,—the fleets of the enemy insulted our shores,—Ireland was on the verge of rebellion,—Russia, and the northern powers, under pretence of an armed neutrality, were combined against our naval rights,

\* A remarkably acute friend of mine, formerly at the bar,—the Judges having retired for a few minutes in the midst of his argument, in which, from their interruptions and objections, he did not seem likely to be successful,—went out of court too, and on his return stated that he had been drinking a pot of porter. Being asked whether he was not afraid that this beverage might dull his intellect, "That is exactly my object," said he

—"to bring me down, if possible, to the level of their Lordships."

† 22 Parl. Hist. 1007—1078.

‡ Ib. 976.

§ Ib. 1000, 1021.

\* See his speeches on the Government Almanack Bill (22 Parl. Hist. 542), and on the Address of Thanks (ib. 672).



and were respectively planning the seizure of a portion of our dominions,—and the utter overthrow of the British empire was anticipated. Notwithstanding the King's firm adherence to the present system, a change of ministers was considered inevitable. The Whigs were becoming stronger in the House of Commons on every division; they had been lately strengthened by the accession of the brilliant talents of Pitt the younger, and of Sheridan; and, what was of even still greater importance, the nation, though disposed to make a gallant struggle against the Continental States, which basely sought to take advantage of our misfortunes, was heartily sick of the colonial war, and was willing to acknowledge American independence. Thurlow's official career being supposed to be drawing rapidly to a close, the lawyers began to speculate which Whig lawyer would be his successor, and how the surly ex-Chancellor would amuse and comfort himself in retirement? That he, who more zealously and uncompromisingly than any other member of the Tory government, had supported all its most obnoxious acts, and more scornfully resisted all the popular measures of the Opposition, should retain the Great Seal, never entered the imagination of any human being except Thurlow himself and the King. Which of the two first conceived the bright thought must for ever remain unknown. When the ministerial vessel did go to pieces, Thurlow was the *tabula in naufragio*—the plank to which his Majesty eagerly clung.

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## CHAPTER CLVIII.

CONTINUATION OF THE LIFE OF LORD THURLOW TILL HE WAS DEPRIVED OF THE GREAT SEAL ON THE FORMATION OF THE COALITION MINISTRY.

I AM more and more at a loss to account for Lord Rockingham, Lord Shelburne, and Mr. Fox agreeing to sit in the Cabinet with the man who had so violently denounced A.D. 1782. their opinions on very important questions of foreign and domestic policy which were still pending. The great "Coalition" between the two antagonist parties, which soon after so much shocked mankind, in reality did not involve any such incongruity as this adoption of the most odious member of the late Government, without any renunciation of his principles.

To do *him* justice, it should ever be remembered that, instead of saying "*Peccavi*," he continued to glory in all that he had hitherto done and said while proclaiming the Rockingham and the Shelburnes as enemies to their country. The proposed measures on which the new Administration was founded, were four:—1. An offer to America of unconditional independence as the basis of a negotiation for peace. 2. Economical reform as proposed in Mr. Burke's bill. 3. Repression of the undue influence of the Crown in the House of Commons, by disqualifying contractors to sit there, and by preventing revenue officers from voting at parliamentary elections. 4. The pacification of Ireland by a renunciation of the authority of the British parliament to legislate for that country. The subsequent fusion of Whigs and Tories was plausibly (I think not effectually) defended by the observation that, when it took place, all the questions on which Lord North and Mr. Fox had differed so widely were settled, and that there was nothing to prevent their practical co-operation for the future. But the four great measures which I have specified were still to be brought forward by the Government, and Thurlow had often declared, and was still ready to declare, that they were all unconstitutional and pernicious. The King, upon a proper representation, could not have insisted (as he is said to have done) on the retention of Thurlow as the condition of his giving his consent to the introduction of Mr. Fox into the Cabinet; for although he might have executed his threat of abdicating, and retiring to Hanover, he could not at that hour have remained on the throne of England, indulging personal partialities and antipathies in the choice of his ministers.

Mr. Adolphus, in his History of George III., says, "Mr. Fox, some time before the overthrow of the late Cabinet, acknowledged that his adherents detested Lord Thurlow's sentiments on the constitution; but added, they did not mean to proscribe him." Fox, however, was then speaking of the Lord Advocate of Scotland, not of Lord Thurlow; and he declared that "they would proscribe no man of any principles in the present dreadful moment, but *the five or six men who had been the confidential advisers of his Majesty in all the measures that had brought about the present calamities.*"

I can only account for the wishes of the King prevailing by supposing the existence of jealousies, rivalries, and bickerings

among the Whigs themselves as to the disposal of the Great Seal. It is certainly much to be deplored if the apprehensions of the Rockinghams, that the Shelburnes would be too much aggrandised by the appointment of Dunning, deprived him of the fair reward of his exertions, and the public of the benefit of his services. From the time that he accepted the Duchy of Lancaster and a Peerage, he sunk into insignificance. He had a seat in the Cabinet, but that seldom gives much weight without important official functions and a great department to administer.

How Thurlow comported himself when he met his new colleagues at cabinets to concert their proceedings in parliament, we are left to conjecture. It must now have been very convenient for him to practise the habit he is said to have acquired of going to sleep, or pretending to go to sleep, after dinner, during discussions on which the safety of the state depended. We know that when the measures of Government were brought forward in parliament he opposed them without any reserve.

During the short existence of the Rockingham Administration, the Lord Chancellor might truly be considered the leader of "his Majesty's Opposition" in the House of Lords. He knew the *secret*, which the King was at no pains to conceal, and which was loudly proclaimed by all the "King's friends," that the Administration did not possess his Majesty's confidence.\* His object, therefore, was to take every opportunity of disparaging it, and, above all, of sowing dissension between the different sections of the liberal party of which it was composed.

They lost a little popularity by the defeat of the motion for a reform in the representation of the people in parliament, made by their partisan, Mr. W. Pitt, then a young lawyer going the Western Circuit. This measure was supported by the Shelburne Whigs, but discouraged by the Rockinghams, who, while they were economical reformers, professed deep reluctance to touch the constitution of the House of Commons.

To evince the sincerity of their professions while in opposition, and to recover their character, Ministers re-introduced,

\* "The King declared that, in the whole course of his reign, this was the only Administration which had not possessed his confidence."—*Adolph.* iii. 373. This statement is said to be from "private information," and his Majesty often praised the accuracy of

this historian. The avowal is supposed to have been made by his Majesty after the Administration was dissolved; but, from its formation, the fact had been notorious to all the world.

and both their sections eagerly supported, the two bills which Thurlow had formerly thrown out in the Lords, for the disqualification of contractors as representatives, and of revenue officers as electors. The bills passed the Commons with acclamation; but when they came before the Upper House, although the existence of the Government was declared to depend upon them, he attacked them with unabated violence. The second reading of the "Contractors' Bill" having taken place without discussion, the Lord Chancellor left the wool-sack, and observed, that "he had expected that, before the bill reached that stage, some noble Lord would have had the goodness to explain to the House the principles on which it rested, and the necessity for introducing it at this particular juncture. The bill trenching on the ancient constitution of this realm, he considered it highly exceptionable in itself; and it was still more exceptionable in its form, from the very singular, imperfect, careless, and inexplicable style and phrase in which it was worded. He would not, by applying strong epithets to the bill, give it a worse character than it really deserved; but, after having perused it with all the attention he was capable of, he could find no milder words in the English language to describe the impression his perusal of it had left upon his mind, than terming it *an attempt to deceive and betray the people.*"\* Having denied that there ever had been any instances of members of parliament being corrupted by Ministers through the means of contracts, he asked "if no such instance had ever occurred in the worst of times, why pay so bad a compliment to succeeding Ministers as to presume that they will be so much more depraved, so much more abandoned, so lost to all sense of shame, as to be guilty of what their predecessors would have shunned with abhorrence? Why have his Majesty's present Ministers so little confidence in themselves? Why do they believe that they are more corrupt than those they have succeeded?" A noble Lord said, "No Ministers could be more corrupt than the last."—*Lord*

\* This reminds me of a Westminster Hall anecdote of Mr. Clarke, leader of the Midland Circuit—a very worthy lawyer of the old school. His client long refusing to agree to refer to arbitration a cause which judge, jury, and counsel wished to get rid of, he at last said to him, "You d—d infernal fool, if you do not immediately follow my Lord's recommendation, I shall be obliged to use *strong language* to you."—Once, in a council

of the benchers of Lincoln's Inn, he very conscientiously opposed our calling a Jew to the bar. I tried to point out the hardship to be imposed upon the young gentleman, who had been allowed to keep his terms, and whose prospects in life would thus be suddenly blasted. "Hardship!" said the zealous churchman—"no hardship at all! Let him become a Christian, and be d—d to him!!!"

*Chancellor*: "Then, my Lords, I am relieved from farther arguing the question; for if there was perfect purity in such matters (as I know there was) with the last Ministers, supposing them to have been corruptly inclined (as I know they were not), the bill is confessedly unnecessary, and it is a mischievous remedy for an imaginary and impossible evil. It holds out nothing like a reform either in point of economy or influence. I must likewise, in the discharge of my duty, remind your Lordships that two years ago you rejected this very measure when it was proposed in a less exceptionable form. You are bound to act consistently. If you should now, to please the Minister, suddenly wheel round, how are you to surmount the abusive attacks and scurrilous insinuations of anonymous libellers? Such illiberal assassins and scribbling garreteers may now have some colour for their attacks upon your dignity. It behoves your Lordships to act so that you may be able to laugh libellers to scorn, and to defy their malice." He actually divided the House; but this was not yet the time to break up the Administration, and he had on his side only 45 against 67—a larger minority, however, than had been ever mustered in the Upper House against any measure of Lord North's Government.

Thurlow continued a most vexatious opposition to the bill in the committee—where, going through it clause by clause, he denounced it as "a jumble of contradictions." It was there defended by the two new law lords, Lord Ashburton and Lord Grantley. They both gallantly fleshed their maiden swords in various rencounters with the "blatant beast," who tried to tread them down.

On some of the divisions in the committee the Ministerial majority was reduced to two votes. The bill was carried. But thenceforth the "King's friends" in both Houses openly declared themselves against the existing Government.<sup>b</sup>

The Chancellor got up a similar opposition to the other Government bill for disqualifying revenue officers from voting at parliamentary elections, although Lord Rockingham, in what may be considered a dying speech, deprecated opposition to it, and stated the striking fact that there were no less than seventy boroughs in England in which the return of members depended chiefly on revenue officers appointed and removable by the Government. On the last division on this bill, the Chancellor had the mortification to announce that the *Contents*

were 34, and the *Not-contents* (of whom he was one) were 18.<sup>c</sup>

Notwithstanding that Mr. Burke and several other leading members of the Government were hostile to a sweeping measure of parliamentary reform, they concurred with their colleagues in the desire to punish corruption at elections, and the whole party in the House of Commons strongly supported the bill for transferring the franchise of Cricklade to the adjoining "hundreds" on account of the universal bribery proved upon the burgesses. But when the bill came up to the Lords, it likewise was vehemently opposed by the Chancellor. The Duke of Richmond thereupon charged the noble and learned Lord on the woolsack with "opposing indiscriminately every measure of regulation or improvement which was laid before the House." The Lord Chancellor complained of the asperity with which he had been treated by the noble Duke, and said, "he thought it rather a peculiar hardship that his manner—that of a plain man, who studied nothing but to convey his sentiments clearly and intelligibly—should be imputed to him as if arising from a habit of indiscriminate opposition or of intentional rudeness."

Lords Mansfield, Camden, Loughborough, Ashburton, and Grantley, having taken part in the discussion, "Lord Fortescue bewailed the degraded dignity of the House, lowered and tarnished by a profusion of lawyers: it was no longer a house of peers, but a mere court of law, where all the solid honourable principles of truth and justice were shamefully sacrificed to the low pettifogging chicanery and quibbles of Westminster Hall. That once venerable and august assembly now resembled a meeting of attorneys in a Cornish court acting as barristers; the learned Lord on the woolsack seemed fraught with nothing but contradictions and law subtleties and distinctions, and all that." The Chancellor was not to be deterred from his obstructive course by such observations; but, notwithstanding all his efforts, the bill was carried.<sup>d</sup>

Again, when a motion was made by the organ of the Government in the House of Lords for an address of congratulation to the Throne on the great victory obtained by Rodney over De Grasse in the West Indies, which was stated to be "conducive to an honourable and advantageous peace," Thurlow objected to these words, as containing a *political opinion on the*

<sup>c</sup> 23 Parl. Hist. 95—101

<sup>d</sup> 22 Parl. Hist. 1383—1395; Adolphus, iii. 363.

*expediency of peace*; and, for the sake of unanimity, they were omitted.\*

The Marquis of Rockingham expired on the 1st of July. On the 3rd of the same month stood an order of the day for the second reading of Mr. Burke's famous bill to reform the Civil List expenditure—a measure which was highly distasteful to the Court. No arrangement had yet been announced for the appointment of a new Premier. The Chancellor was eager to give a blow to that section of the Administration which was most hated by himself and his master—the personal adherents of the deceased minister. Therefore, at the sitting of the House, in an abrupt manner he left the woolsack to make a motion for the purpose of throwing out the bill. After calling their Lordships' attention to its importance, he said—"At this late stage of the session, and with so thin an attendance, it would ill become you hastily to adopt a string of propositions, in themselves very complicated, and in many respects contradictory. But, my Lords, I am surprised to find that the Right Honourable Gentleman who prepared this bill, and who, some years ago, introduced one on somewhat similar principles, has now left out several important offices and places which he formerly represented as peculiarly standing in need of his speculative remedy. One of these offices is occupied by a noble Duke (Richmond) who cannot be anxious to receive its emoluments. He certainly would not suffer any corruption to be practised in any department in which he presides. Whether the ORDNANCE be left out in compliment to his Grace's virtues and talents, I will not pretend to decide; but I am sure that the 'Ordnance' and the 'Mint,' and the 'Duchy of Lancaster,' held by the Right Honourable Gentleman's colleagues, are very properly left out, and I could only wish that he had dealt in the same way with other offices which he has included,—some of them the most ancient and illustrious in the state,—so that to annihilate them was, in fact, an attempt to destroy the constitution." He then started a technical objection,—that there being for the protection of their privileges a standing order, passed in the year 1702, which provided that "no money bill should be allowed to pass containing extraneous enactments," this bill granted a supply to his Majesty of 300,000*l.*, and was a money bill, while it abolished or regulated half of the offices under the Crown.

"Therefore," said he, "with all my aversion to the evils which the bill seeks to remedy, I cannot give it my support. There appears to me to be objectionable and absurd matter almost in every clause of it, and I adjure your Lordships to adjourn the consideration of it—more especially as, if you agree, in compliance with the menaces of another branch of the legislature, to send it to a committee, you will sacrifice your standing order, and surrender your dignity." He concluded by moving that the order for the second reading of the bill should be discharged.

Lord Shelburne pretty clearly indicated his expectation (although Thurlow seems not yet to have been aware of the fact) that he was himself to be the minister, and he felt that, without an entire loss of public credit, he could not abandon the bill. He declared "that he joined with the House, and the whole public must join, in deploring the heavy loss the country had experienced in the death of the late Marquis of Rockingham. That great man, however, had by his example obliged whoever should be the minister to do his duty to the public, and had left this bill behind him as a pledge of his wisdom, his integrity, and his zeal to further the strictest economy in every branch of the public expenditure." The noble Earl then professed himself favourable to parliamentary reform, and to all measures of improvement, but did not say a word in defence of the author of the bill—which might be the reason that Burke a few days after, when his Lordship had actually seized the helm, compared him to Catiline and to Borgia. Thurlow still called for a division on his motion against the bill, but was left in a minority of 9 to 44.<sup>f</sup>

Lord Shelburne being declared First Lord of the Treasury, Mr. Fox, Lord John Cavendish, Mr. Burke, the Duke of Portland, and other Rockingham Whigs, resigned. I cannot say that they made a dignified or becoming exit. In the explanations which followed, their leader said he had intended to withdraw before the death of the Marquis of Rockingham; but all the world believed the true reason to be, that Lord Shelburne was appointed to succeed him. It had long been quite clear that Thurlow ought never to have been admitted into Lord Rockingham's Cabinet; and that Lord Rockingham ought to have adopted the course afterwards pursued by Mr. Pitt, by asking his Majesty to elect between his First Lord of the Treasury and his Chancellor. At this crisis the retiring



ministers should have objected to the retention of Thurlow—not to the promotion of Lord Shelburne. They presented to the nation the spectacle, ever disliked, of a squabble for places, and an unfair attempt to control the discretion of the Sovereign.

Lord Shelburne was strengthened by the accession of young Pitt, who, for the office of Chancellor of the Exchequer, renounced the profession of the law, the highest honours of which, had he continued in it, he must rapidly have attained. Thurlow joyously consented to continue Chancellor, and, the new Administration being less disagreeable to the Court than that of Lord Rockingham, he was much mollified, and gave it his support. Indeed, during Lord Shelburne's ministry, which speedily came to a violent end by the "Coalition," the Chancellor is not recorded to have opposed one Government measure, and in the grand debate on the Preliminaries of Peace he gallantly supported his colleagues.

On this occasion he followed Lord Loughborough, who, having become a Foxite, had in a long and elaborate <sup>A.D. 1783.</sup> speech attacked the terms of the treaty, and particularly, in reference to the article agreeing to the cession of the Floridas, denied the power of the Crown, without an act of parliament, to alienate a portion of the British empire, and to transfer the allegiance of British subjects to a foreign state. Thurlow's answer is supposed to have settled that great constitutional question; but I own it seems to me very unsatisfactory, for, as usual, he deals in sarcasm and assertion, not in reasoning or authority, and he does not define or limit the power he contends for—so as to exclude from its exercise the cession of the Isle of Wight, or the garrison of Portsmouth:—

"My Lords," said he, "I cannot claim your attention on the ground of eloquence and wit. These belong peculiarly to the noble and learned Lord who has so long and ably endeavoured to fascinate your Lordships, and whose skill and address in managing the passions of his auditors are not to be equalled,—and, by a man of plain meaning and sober understanding like myself, whose only wish is to discriminate between truth and fiction, not to be coveted. The noble and learned Lord has thought proper to allege that the royal prerogative does not warrant the alienation, in a treaty of peace, of territories which were under the allegiance of the Crown of England. If this doctrine be true, I must acknowledge myself strangely ignorant of the constitution of my country. Till the present day of novelty and miracle, I never heard of such a doctrine. I apprehend, however, that the noble and learned Lord has thrown down

the gauntlet on this occasion more from knight-errantry than patriotism, and that he was more inclined to show the House what powers of declamation he possesses in support of hypothetical propositions, than anxious gravely to examine a power wisely lodged in the Crown, the utility, much less the existence, of which has never hitherto been questioned. One would have thought that when a great, experienced, and justly eminent lawyer hazarded an opinion respecting a most important point of the constitution of this country, he would deem it fit to produce proofs from our legal and historical records, or at least that he would attempt to show that the common opinion and consent of Englishmen went with him; but instead of this the noble and learned Lord resorts to the lucubrations and fancies of foreign writers, and gravely refers your Lordships to Swiss authors for an explanation of the prerogatives of the British Crown. For my own part, I at once reject the authority of all foreigners on such a subject. However full of ingenuity Mr. Vattel or Mr. Puffendorf may be on the law of nations, which cannot be fixed by any solid and permanent rule, I deny their authority, I explode their evidence, when they are brought in to explain to me what may or may not be done by the Sovereign I serve. Speaking from my own judgment, the records of parliament, the annals of the country, I do not think the cession of the Floridas at all a questionable matter. Let the noble and learned Lord bring forward the subject regularly, and I will establish a doctrine clearly contrary to the extraordinary notion now sported by him, or confess my ignorance. I will not combat the noble and learned Lord with vague declamation and oratorical flourishes,—these I contentedly leave to him with the plaudits they are calculated, perhaps intended, to gain,—but with undecorated sense and simple argument. In my opinion, it is safer to stick to the process by which we arrive at the conclusion that two and two make four, than to suffer your understandings to be warped by the fashionable logic which delights in words, and which strives rather to confound what is plain than to unravel what is intricate.”<sup>g</sup>

He might just as well, after the manner of Lord Peter, in one sentence have affirmed with an oath that it was so, and uttered an imprecation on all who differed from him.<sup>h</sup> But this ebullition was thought by their Lordships a very ample answer to the objection, and even Lord Loughborough’s friends felt that he had made a false point, and that he was completely put down. We must bear in mind Thurlow’s voice and manner, and that “he looked wiser than any man ever was.”<sup>i</sup>

<sup>g</sup> 23 Parl. Hist. 430.

<sup>h</sup> “Look ye, gentlemen,” cries Peter in a rage: “to convince you what a couple of blind, positive, ignorant, wilful puppies you are, I will use but this plain argument: but, by G—, it is true, good, natural mutton as

any in Leadenhall market; and G— confound you both eternally if you offer to believe otherwise.” After this “thundering proof,” his Lordship was allowed to “have a great deal of reason.”

<sup>i</sup> Saying of Mr. Fox.—In the discussion of

The ill-advised coalition had now actually taken place between Mr. Fox and Lord North, which produced a censure on the Peace in the House of Commons and the resignation of Lord Shelburne.

Till very recently, it had been uniformly stated, and universally believed, that in the formation of a new government the King still desired to have Thurlow Chancellor, and that his Lordship was nothing loth to comply with the royal wish, but that Mr. Fox and the Whigs, recollecting the part he had acted under Lord Rockingham, objected in the most peremptory manner to such an arrangement; that this dispute caused the delay which gave rise to the motions in the House of Commons during the "interregnum;" and that his Majesty was at last induced to yield to a compromise, by which the Great Seal was put into commission.<sup>k</sup> But in a late valuable biographical work it is stated, that "the following particulars were related by Lord Eldon to his brother-in-law, Mr. John Surtees: Mr. Fox, much to Lord Thurlow's surprise, called at his house, and was shown into his drawing-room. Lord Thurlow, immediately that Mr. Fox's visit was announced, determined to receive him (observing, when he narrated the matter, that he did not wish Mr. Fox should suppose him afraid to meet any one), and an interview took place. Lord Thurlow, on being informed by Mr. Fox that he and his party wished the co-operation of his Lordship as Chancellor in the administration they wished to form, said, *Mr. Fox, no man can deny that either you or Mr. Pitt are beyond any two men that can be named fit from character and talents to be at the head of any administration; but as Mr. Pitt is very acceptable to the King, and is in an extraordinary degree popular in the country, I have connected myself with him.* On Lord Thurlow's refusal, the Great Seal was put in commission."<sup>m</sup> I do not impute the slightest intention wilfully to misrepresent either to Mr. John Surtees or to Lord Eldon, but the story is wholly incredible, and there must have been a lapse of memory in one of them, or Thurlow must have intended to mystify. The refusal is more impossible than the offer, and the difficulty cannot be solved by an anticipation of a speedy change, for Thurlow would have

the Ashburton treaty, by which the Mada-waska settlement, a part of Canada allowed to belong to England, was ceded to the United States, I tried to revive the question, "Whether an act of parliament was not necessary to give it validity?" but I was told

that the sufficiency of the prerogative to effect the transfer had been established by "the unanswerable arguments of Thurlow."

<sup>k</sup> Sir F. Wraxall's Mem. ii. 315.

Twiss's Life of Eldon, i. 141.

considered that he might have an opportunity of accelerating this by entering the Cabinet; that acceptance must be agreeable to the King; and that betraying one prime minister was the best prelude to service under another. But, to end the controversy, we have only to look to Mr. Fox's declarations in the House of Commons at this very time respecting him whom it was supposed he was pressing to become his colleague. Mr. Coke, of Norfolk, having moved an address, praying "that his Majesty would graciously take into his consideration the distressed state of the empire, and, in compliance with the wishes of the House, would form an administration entitled to the confidence of the people," Mr. Fox observed, "If any wish to see who it is that for the last five weeks has governed the kingdom and ill-advised his Majesty, let them go to the other House; they will there find the great adviser in his true character. Let them mark the man; they will see difficulty, delay, sullenness, and all the distinguishing features of what has been falsely called an *interregnum*, but in reality been a specimen of the most open and undisguised rule ever known in this country." Governor Johnstone took up the defence of the Chancellor, whom he described as "a great pillar of state, to whom the country might look up with confidence as a protector of its constitution against those mad projects of reform which threatened its annihilation; therefore dark insinuations against such a character ought not to be listened to: If the noble and learned Lord acted in the manner insinuated, and had been the cause of keeping the country so long without an administration, either by giving ill advice to his Majesty, or by any other means, he was a great criminal; but before withdrawing his friendship from one whom he had so long esteemed, he expected to have the fact proved, and he would not consent to presume its truth on mere surmise or assertion. If the right honourable gentleman, actuated by a sense of duty, was for a coalition, let him coalesce with the noble and learned Lord whom he once praised but now calumniated."—*Mr. Fox*: "I have still as high personal respect for the noble and learned Lord alluded to as ever; I have merely spoken of his public conduct, which I believe has been the source of great calamities to the country. I acknowledge his abilities, but I contend that they render their possessor an object to be dreaded, as he has in the same proportion the power of doing mischief."\*

It is quite certain that Thurlow's presence in Lord Rockingham's Cabinet was a principal reason for Fox's resignation on the death of that nobleman; that he found it utterly impossible to act with him; and that he would now indignantly have scorned the notion of again being associated with him. His reluctant assent, at a subsequent period during the King's illness, to ratify the conditional disposition of the Great Seal in favour of Thurlow, only shows more strongly that he never would spontaneously have proposed such a course.

The new Ministry being formed under the nominal headship of the Duke of Portland, with Mr. Fox and Lord North as its efficient members, the Great Seal was taken from Thurlow and put into commission, Lord Loughborough being the First Lord Commissioner.\*

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## CHAPTER CLIX.

CONTINUATION OF THE LIFE OF LORD THURLOW TILL THE KING'S ILLNESS  
IN 1788.

BUT Thurlow, deprived of the Great Seal, remained "Keeper of the King's conscience," and they both went into hot opposition. If it be ever excusable in a King of <sup>A.D. 1783.</sup> England to cabal against his ministers, George III. may well be defended for the course he now took; for they had been forced upon him by a factious intrigue, and public opinion was decidedly in his favour. Thurlow was frequently closeted with him, and they watched for a favourable opportunity to be revenged of the coalitionists. Mr. Pitt, on the resignation of Lord Shelburne, had declined an offer to form a new government, of which he was to be the head—wisely thinking it better to wait till the "coalition" should become more unpopular. For this reason he was for the present looked upon at Court rather coldly, and, though polished and courteous in

\* 7th May, 1783.—Alexander Lord Loughborough, Chief Justice of the Common Pleas, Sir Wm. Henry Ashurst, Knt., a Judge of the King's Bench, Sir Beaumont Hotham, a Baron of the Exchequer, being by letters patent, dated 9th April, 1783, appointed Commissioners of the Great Seal of Great

Britain, upon the 7th day of May following, being the first day of Easter Term, came into the Court of Chancery at Westminster Hall, and in open Court took the oaths, &c.; the senior Maister in Chancery holding the book." &c.—*Cr. Off. Min.* No. 2, 30.

his manners, yet, on account of his lofty spirit and unbending independence, he never was personally so much beloved by George III. as Thurlow, who, rough and savage to the rest of mankind, was always noted for pliancy and assentation in the presence of royalty.

From April to December, the term of the Coalition Ministry, Thurlow was constantly considering the most effectual means for effecting its overthrow. Had he been in the Cabinet, he would have had a still better opportunity of thwarting its measures, and his opposition would have had double weight. However, his prudence and sagacity were of essential service in tempering the impatience of the King, and when the proper time arrived he struck the fatal blow with signal vigour and dexterity. It was by secret advice more than by open efforts in parliament that he struggled for his restoration to office, and till Mr. Fox's India Bill arrived in the House of Lords, that assembly was allowed to remain nearly in a passive state.

The ex-Chancellor nevertheless availed himself unscrupulously of any little opportunity that occurred of disparaging the Government and embarrassing its proceedings.

On the second reading of the bill framed and introduced by the late Government for abolishing the right of appeal from the Irish Courts of law to the British House of Lords, and acknowledging the supremacy of the Parliament of Ireland, Lord Thurlow, to make his opponents unpopular in one island or the other, or in both,—instead of allowing it quietly to pass, according to the wish of prudent men, said,—“I desire to have a distinct statement of the grounds on which the measure is adopted by the present Ministers. For what purpose is it to be carried? To what end is it to be applied? With what other measures is it to be followed up? There can be no embarrassment to Ministers in answering such questions. The noble Duke [Portland] tells us he looks round for confidence, and claims it from the tenour of his past life. I am in great doubt, my Lords, respecting the meaning of this word ‘*confidence*.’ Does it mean that his Grace has no other plan in view? that his Cabinet have no plan for the government of Ireland? and that they have taken this Bill up without inquiry, without consideration, without caring whether it goes far enough or too far? Or does it mean that they have a fine system to develop, but that we must trust to their good character till the day arrives for making it known? Let me have

the English of the word '*confidence*.' Unless it means '*no plan*,' no claim can be laid to it by this untried Administration." *Lord Loughborough*: "My Lords, I consider this conversation (for we have had no debate on the merits of the bill) extremely irregular, if not disorderly. No objection being made to the bill, Ministers are called upon to divulge their future system of policy, and to declare what may be their opinions and conduct on various matters not before the House. This is an opposition hardly consistent with fairness, and hardly such as any ministers could expect to encounter. The present Ministers have been so short a time in place, that to require them already to proclaim all their plans, does seem very strange; but above all is it strange, that they should be asked the grounds and objects of this bill. The persons who can best give that information are the Ministers with whom it originated." *Lord Thurlow*: "I deny, my Lords, that I am disorderly in taking the present opportunity of desiring to know the principles on which the present bill is to be passed into a law. If it is adopted without principle, if it is taken up merely on the authority of the predecessors of the present Ministers, then it may well be said to resemble a schoolboy's task, and the former Ministers are to be considered as the '*prepositors*' of the noble Lords opposite,—who are mere school-boys, and ought not to hold the reins of government half an hour. But I have too much respect for their understanding, and too much regard for their reputation, to entertain such an opinion. They must have taken up this bill as part of a plan for the government of Ireland. If they will not give us the least intimation of it, let them at least tell us whether they have any plan at all." <sup>p</sup>

During this short interval of opposition, Thurlow, to the surprise and amusement of the public, professed himself a REFORMER; and that he might cast odium upon the Government for throwing out an absurd bill, which professed to correct abuses in public offices, he warmly supported it. Said he, "I feel for the fair fame of the present Administration, and, as a well-wisher to the men of honour and honesty who belong to it, I advise them not to rest satisfied with the pledge of the noble Duke [Portland] that he will do what he can for economy. They are right not to mind the loss of mere popularity. He who rests on the empty clamour of a newspaper is an object only of contempt. But I advise the noble Duke to avoid the

condemnation of wise, temperate, and thinking men, who never judge rashly or hastily. All such men must cry out against the resolution to stifle such a bill as this without due investigation. The reform is loudly called for, and we must have it immediately. The nation will not be content with the noble Duke's promise that he will begin the reform as soon as possible. The legislature must interpose. It is not in the power of the best ministers to check abuses in their offices by their own authority. We may have ministers bankrupt in fortune and in name, and therefore the present bill is indispensable." He actually divided the House upon it—but it was rejected by a majority of 40 to 24.<sup>9</sup>

He soon had a better battle-horse. On the 9th of December appeared at the bar of the House of Lords, attended by an immense number of coalition members of the House of Commons, Mr. Secretary Fox, who, delivering a parchment roll to Lord Mansfield as Speaker, said, "*The Commons have passed a bill for the better government of the territorial possessions and dependencies of this kingdom in the East Indies, to which they pray the concurrence of your Lordships.*" The bill, as a matter of course, being read a first time,—on the motion "that it be read a second time on Monday next," Thurlow launched forth against it to a willing audience, Lord Temple having very intelligibly conveyed the information to their Lordships that the bill was highly disagreeable to his Majesty, and that the rejection of it would enable his Majesty to get rid of ministers whom his Majesty so much disliked. *Lord Thurlow*: "There is much indecency in proposing so early a day for the consideration of such an important measure—a measure perhaps the most important which was ever agitated in parliament. In the first place, it is a most atrocious violation of private property. If it be necessary, the necessity must be fully and fairly proved by evidence brought to your bar; not by the report of a committee of the other House, to which I would give as much faith as to the adventures of Robinson Crusoe. Whatever necessity for interference may be proved, still I contend that the present bill neither goes to the correction of any existing abuse, to the prevention of any evil in future, nor to the relief of the Company's pressing wants. In fact, my Lords, it is a most direct and daring attack upon the constitution of this country, and a subversion of the first principles of government."

<sup>9</sup> 23 Parl. Hist. 1106—1114.



Lord Loughborough tried to defend the bill by reason of the insolvent state of the Company's affairs at home, and the deplorable state of their settlements abroad: "What scenes of desolation and distress do we behold! A prince has been driven from his palace,—his treasures have been seized, and he is now a fugitive wandering among the jungles of the Ganges. Fertile provinces have been laid waste—wars have been entered into without provocation and without advantage—and a peace with the Mahrattas will only lead to a fresh war with Tippoo Saib. A country so misgoverned must be wrested from the hands of its present weak or wicked rulers."

Lord Thurlow.—"The noble and learned Lord has not yet vouchsafed to give any solution to my difficulties. I ask the noble and learned Lord whether he can reconcile the principles of this bill to the principles of the British Constitution, even supposing the necessity for the interference of Parliament to be apparent? The noble and learned Lord presiding in two of our supreme Courts, I might have expected to find him the champion of British justice.\* It is not fitting that such a character should meddle in the dirty pool of politics. The present bill means evidently to create a power which is unknown to the constitution—an *imperium in imperio*; but as I abhor tyranny in all its shapes, I shall strenuously oppose this most monstrous attempt to set up a power in the kingdom which may be used in opposition to the Crown, and to destroy the liberties of the people. I wish to see the Crown great and respectable; but if the present bill should pass, it will be no longer worthy of a man of honour to wear. The King, by giving the royal assent to it, will, in fact, take the Crown from his own head, and place it on the head of Mr. Fox."

From the manner in which these observations were received by the House, it was clear that the victory was won. The only consideration was as to the manner in which the bill should be rejected. Without any division, an order was made for hearing counsel and evidence at the bar in support of the Petition of the East India Company against the bill; and Thurlow, notwithstanding the vigorous efforts of Lord Loughborough, being supported by Lord Mansfield and Lord Camden, was able to dictate the mode in which the examinations should be conducted,—so that the final catastrophe was evidently at hand. In the debate on the second reading, Thurlow would not vouchsafe even to deal out any more vituperation or denunciation. He contented himself with calling out, "Question!

\* Lord Loughborough was at this time Commissioner of the Great Seal.  
Chief Justice of the Common Pleas and First      24 Parl. Hist. 122.

question! Divide! divide!" The bill was rejected by a majority of 95 to 76.<sup>1</sup>

Next night, at twelve o'clock, a messenger delivered to the two Secretaries of State, Mr. Fox and Lord North, his Majesty's orders "that they should surrender up the seals of their offices by their under-secretaries, as a personal interview on the occasion would be disagreeable to him." The seals were immediately given to Earl Temple, who, as Secretary of State, sent letters of dismissal the day following to the rest of the Cabinet Council. At the same time Mr. William Pitt, at the age of twenty-four, was declared Prime Minister, and the government was formed which many predicted could not last more than a few weeks, but which proved the strongest and the most durable of any during the long reign of George III.

Thurlow was, of course, to be restored to his office of Lord Chancellor, and he promised very cordially to support the new chief, though laughing at him in private on account of his zeal for reform, and his professions of public virtue. We shall see that, from their very different characters and principles, their mutual jealousies and dislikes were ere long manifested to all the world.

Thurlow's conduct during the Coalition Ministry, though generally blamed with much severity, appears to me the most unexceptionable part of his whole career. He is censured for giving secret advice to the Sovereign when he was not in office; but we must not carry our constitutional notions to a pedantic length. I think George III. was fully justified in wishing to get rid of Mr. Fox and Lord North as soon as possible; and I cannot condemn an experienced statesman, who was in opposition, for giving him hints as to the most expedient course to be pursued for gaining that object. Even if he repeated Lord Temple's declaration, that "his Majesty disliked the India Bill," I do not see that he was guilty of any very heinous offence. The name of the Sovereign cannot be regularly mentioned in parliament to influence debate, but it is absurd to suppose that he can never have any wish except that of his ministers for the time being, and that he alone, of all persons in his dominions, is to be without any private opinion. Although his private opinion on a public measure is not binding, either in or out of parliament, there are rare occasions where it may not improperly be made known, and George III. may deserve some credit for then acting as the

Coryphæus of his subjects. No one in the present age believes that the framers of this famous India Bill had the intention imputed to them of erecting a power independent of the Crown; but its policy was doubtful. The joint sway of the Court of Directors and the Board of Control being substituted for the arbitrary rule of the "Seven Kings," our Eastern empire has been governed with wisdom, with success, and with glory.

The Lords Commissioners having some business to wind up in the Court of Chancery, the transfer of the Great Seal did not take place till the 23rd of December. On that day they surrendered it at a council held at the Queen's House, and it was restored to Thurlow with the title of Lord Chancellor."

It must have been amusing, during the ceremony, to observe the countenances of the two principal performers, who having been friendly associates had become bitter rivals—who had been years violently struggling, and who for years continued violently to struggle, for the same bauble. But how little could they penetrate into futurity! The wary Wedderburn, thus obliged to part with the object of his affections, afterwards met with a cruel disappointment, when, on the King's illness, he thought it was within his clutch; and the reckless Thurlow, at that time willing to sacrifice his benefactor and his party that he might retain it,—subsequently securely in possession of it,—in consequence of his own waywardness and intemperance saw it transferred to his opponent—who now despondingly believed that his chance of reaching the summit of his ambition was gone for ever.

A.D. 1784.

During the storms which raged in the House of Commons for the remainder of the session, there was a perfect calm in the House of Lords. Here the new Ministry had from the beginning a complete ascendancy; while in the House of Commons there were great, though decreasing, majorities against them, led on by Mr. Fox and Lord North.

It was only once thought necessary to rouse the Peers into action. The Commons having passed certain resolutions which it was contended amounted to a repeal of an act of parliament,

" 23rd Dec. 1783. The Lords Commissioners for the custody of the Great Seal of Great Britain having delivered the said Great Seal to the King at the Queen's House on Wednesday, the 23rd of Dec. 1783, his Majesty the same day delivered it to Edward Lord Thurlow, with the title of Lord High

Chancellor of Great Britain," &c. The entry goes on in the usual form to state his sitting in Lincoln's Inn Hall next day, and his taking the oaths in Westminster Hall the first day of the following Hilary Term, the Master of the Rolls holding the book, &c.—*Cr. Off Min.* No. 2, p. 32.

and to a denial of the King's right to choose his own ministers, Lord Effingham brought forward counter resolutions in the Upper House, denying the right of one branch of the legislature to suspend the execution of the laws, and affirming the King's prerogative in the appointment of his ministers. These were opposed by Lord Loughborough, who insisted that the resolutions of the Commons were constitutional, as that House had a control over the supplies, and a right to advise the Crown upon the exercise of the prerogative. He said, "There is a maxim that 'the King can do no wrong;' but the law admits the possibility of the King being deceived, and there is no doubt that princes are more likely to be imposed upon than other men. According to this principle the Commons, even before the Revolution, were in the habit, as often as they deemed it expedient, of addressing the King, humbly praying him to change his councils and his councillors. I doubt not the abilities of many of the present Administration—for some of whom I have the greatest esteem. Yet I think it very ill advised that they should remain in office after the majorities which have appeared against them. They might see the perilous consequences of a breach between the two Houses of Parliament which they are now precipitating. An attempt is made to establish an executive power independent of parliament, and to create a precedent which may be fatal to the dignity and to the authority of both Houses."—The Lord Chancellor, leaving the woolsack, reprobated the resolutions lately come to by the Commons as "the wild efforts of childish ambition." "Is their discretion," continued he, "to be substituted for law? I know how irksome it is to be obliged, from conscience and a love of justice, to oppose the desires of such a powerful body; this is not reposing on a bed of roses; but if I had been placed in the situation of the present Lords of the Treasury when served with the illegal mandate, I trust I should have had firmness to spurn at it with contempt and disdain." He warmly eulogised Mr. Pitt, and particularly dwelt on his disinterestedness in recently refusing the lucrative sinecure of the Clerk of the Pells, which, said he, "I was shabby enough to advise him to accept, and certainly should, under his circumstances, have been shabby enough myself to have accepted." He recommended the resolutions now moved as "a corrective of the wildness of that mad ambition which, by talking in a nonsensical tone of the dignity and honour of parliament, persuaded men, of whom better things might

be expected, to adopt measures extravagant, absurd, and mischievous." \*

The tide of popular favour running stronger and stronger against the Coalitionists, although Mr. Pitt continued in a minority in the House of Commons, and an address had been carried there praying for a change of ministers,—it was determined to dissolve parliament, and to appeal to the people. While preparations were making to carry this measure into effect, the metropolis was thrown into consternation by the news that the Great Seal was stolen from the custody of the Lord Chancellor; and many, who attached a superstitious reverence to this bauble, imagined that for want of it all the functions of the executive government must be suspended. A charge was brought against the Whigs that, to prevent the threatened dissolution, they had burglariously broken into the Lord Chancellor's house in the night time, and feloniously stolen and carried off the CLAVIS REGNI.

The truth was, that, very early in the morning of the 24th of March, some thieves did break into Lord Thurlow's house in Great Ormond Street, which then bordered on the country. Coming from the fields, they had jumped over his garden wall, and, forcing two bars from the kitchen window, went up a stair to a room adjoining the study. Here they found the Great Seal inclosed in the two bags so often described in the Close Roll,—one of leather, the other of silk,—two silver-hilted swords belonging to the Chancellor's officers,—and a small sum of money. With the whole of this booty they absconded. They effected their escape without having been heard by any of the family; and, though a reward was offered for their discovery, they never could be traced. It will hardly be believed that Lord Loughborough, under whose legal advice the Whig party at this period acted, could be so bad a lawyer as to recommend this burglary as a manœuvre to embarrass the Government, although King James II. had thought that he had effectually defeated the enterprise of the Prince of Orange by throwing the Great Seal into the river Thames.

When the Chancellor awoke and found what had happened, he immediately went to Mr. Pitt in Downing Street, and the two waited upon his Majesty at Buckingham House to communicate the intelligence to him. A council was thereupon called, at which the following order was made:—

"At the Court at St. James's, the 24th of March, 1784, present, the King's most Excellent Majesty in Council,—Whereas in the course of the last night the House of the Right Honourable the Lord High Chancellor of Great Britain was broke open, and the Great Seal of Great Britain stolen from thence; it is this day ordered by his Majesty in Council, that his chief engraver of seals do immediately prepare a Great Seal of Great Britain with the following alterations:—

"That on the side where his Majesty is represented on horseback, the number of the present year 1784 be inserted in figures on the plain surface of the seal behind his Majesty; and the herbage under the horse's hind legs omitted.

"That on the reverse, where his Majesty is sitting in state, the palm branch and the cornucopia be omitted on the sides of the arms at the top; and over the above arms the number of the present year 1784 in figures to be inserted, and at the bottom also the present year MDCCLXXXIII. in Roman figures.

"And that he do present the same to his Majesty at this board tomorrow for his royal approbation. And the Right Honourable Lord Sidney, one of his Majesty's principal Secretaries of State, is to cause a warrant to be prepared for his royal signature to the said engraver upon this occasion."

Such expedition was used, that by noon the following day the new Great Seal was finished in a rough fashion, and the following order was made:—

"At the Court at the Queen's House, the 25th of March, 1784, present, the King's most Excellent Majesty in Council,—A new Great Seal of Great Britain having been prepared by his Majesty's chief engraver of seals in pursuance of a warrant to him for that purpose under his royal signature, and the same having been this day presented to his Majesty in Council and approved, his Majesty was thereupon graciously pleased to deliver the said new Seal to the Right Honourable Edward Lord Thurlow, Lord High Chancellor of Great Britain, and to direct that the same shall be made use of for sealing all things whatsoever which pass the Great Seal."

¶ Shortly afterwards, this make-shift was replaced by a new Great Seal of exquisite workmanship, which the artist took a whole year to complete, and which was used during the remainder of the reign of George III., as appears from the following entries:—

"At the Court at St. James's, the 2nd of April, 1784, present, the King's most Excellent Majesty in Council,—It is this day ordered by his Majesty in Council that his Majesty's chief engraver of seals do forthwith prepare the draft of a new Great Seal of Great Britain, and present the same to his

Majesty at this board for his royal approbation."

"At the Court at St. James's, the 14th of May, 1784, present, the King's most Excellent Majesty in Council,—His Majesty in Council having been this day pleased to approve the draft of a new Great Seal of Great Britain, doth hereby order that his chief engraver of seals do forthwith engrave the said Seal according to the said draft, and lay the same before his Majesty at this board for his royal approbation and that the Rt. Hon. Lord Sidney, one of his Majesty's principal

From the Council at St. James's his Majesty immediately proceeded to the House of Lords, and, the Commons being summoned (the Lord Chancellor standing on his right hand, holding the new Great Seal in the old purse), thus pronounced the doom of the Coalitionists :—

“My Lords and Gentlemen, on a full consideration of the present situation of affairs and of the extraordinary circumstances which have produced it, I am induced to put an end to this session of parliament; and I feel it a duty which I owe to the constitution and to the country in such a situation, to recur as speedily as possible to the sense of my people by calling a new parliament.”

In allusion to this theft of the Great Seal, the Rolliad, after describing the different classes of nobility in the House of Lords,—in the following lines “proceeds to take notice of the admirable person who so worthily presided in that august assembly :”—

“The rugged Thurlow, who, with sullen scowl,  
In surly mood, at friend and foe will growl;  
Of proud prerogative the stern support,  
Defends the entrance of great George's Court  
'Gainst factious Whigs, lest they who stole the Seal  
The sacred diadem itself should steal:  
So have I seen near village hutchin's stall  
(If things so great may be compar'd with small)  
A mastiff guarding on a market-day  
With snarling vigilance his master's tray.”<sup>2</sup>

When the appeal to the people was made, the Coalitionists were swept away like chaff before the wind; and a House of Commons was returned, ready to do whatever Mr. Pitt should desire them, except to reform the abuses in the representation of the people—a measure which he still urged earnestly, and I believe sincerely.

From the meeting of the new parliament till the question of the Regency arose, Thurlow enjoyed perfect ease, tranquillity, and security. No administration in England ever

Secretaries of State, do cause a warrant to be prepared for his Majesty's royal signature to the said engraver upon this occasion.”

“At the Court at St. James's, the 15th of April, 1785, present, the King's most Excellent Majesty in Council,—This day the old Great Seal being delivered up to his Majesty by the Right Hon. Edward Lord Thurlow, Lord High Chancellor of Great Britain, the same was defaced in his Majesty's presence; and his Majesty was thereupon pleased to

deliver to his Lordship a new Great Seal.”

<sup>2</sup> Many other *jeux d'esprit* were made upon the occasion, some of which I have heard from men who are now grave judges and dignitaries in the Church, but I may not set down. The most popular was a supposed dialogue between the Chancellor and a lady of his family, beginning—

“When Thurlow was told warm in bed  
That the Great Seal was stolen, how he  
cursed and he swore.”

was in such a triumphant position as that of Mr. Pitt, when, after the opposition it had encountered, the nation, applauding the choice of the Crown, declared in its favour, and the Coalition leaders, with their immense talents, family interest, and former popularity, found difficulty to obtain seats in the House of Commons.

While Mr. Fox, Mr. Burke, and Mr. Sheridan kept up some smart debates upon the Westminster scrutiny and other subjects, the House of Lords usually met only to adjourn.<sup>a</sup> However, there was a little show of resistance there to Mr. Pitt's India Bill, Lord Stormont objecting to its proceeding in the absence of the law Lords; but the Lord Chancellor caused much merriment by showing "that of the six there was only one absent from being entangled in the discharge of professional duty;" and the general opinion was, that the opportunity should not be lost of getting quietly on with the second reading. There was only one division on the bill—when (to prove the little interest which the subject now excited) the numbers were 11 to 4.<sup>b</sup> The Chancellor likewise condescended to defend against a sharp attack of Lord Loughborough Mr. Pitt's famous bill for commuting the tax on tea<sup>c</sup> for one on windows,—ably demonstrating the advantages of low duties and free trade.<sup>d</sup> Nevertheless, before the conclusion of this session, he showed symptoms of that waywardness of temper, or rather dislike of Mr. Pitt, which broke out from time to time, and at last caused his removal from office.

Mr. Dundas, as the organ of the Government, had brought in a bill, which Mr. Pitt supported in an able speech, and which passed the Commons without the slightest opposition, for restoring the estates in Scotland, forfeited in the rebellion of 1745, to the heirs of the former owners who had been attainted. But when it stood in the orders of the day for a second reading in the House of Lords, the Lord Chancellor left the woolsack, and, instead of opening it, as was expected, and moving that it be read a second time, to the great amazement of all his hearers, spoke as follows:—

"My Lords, I desire to know what there is to render it necessary

<sup>a</sup> Now was uttered the sarcasm on their Lordships, which may still be repeated:—  
"SCENE BELOW THE BAR." *1st Mob*: "How sleepy the Lords are!"—*2nd Mob*: "No wonder; they rise so early."

<sup>b</sup> 24 Parl. Hist. 1290—1310.

<sup>c</sup> "While Billy, list'ning to their tuneful plea,  
In silence sipp'd his *Commutation Tea*  
*Rolliad.*

<sup>d</sup> 24 Parl. Hist. 1374.



that a bill of such magnitude should pass so suddenly at the very close of the session? I speak of this bill as a private man, for I know nothing of it as a minister. I do lament that I never heard of it till it had been read a first time in the other House. Since then, considering my various avocations, noble Lords will easily believe that I have not had time to consider it with sufficient attention. I must confess, my Lords, I think it would have been more regular if the bill had originated in this House, or with the King himself. In that case I might have been favoured with some prior intimation of the grounds on which, it seems, his Majesty has been advised to relax the severity of the laws against treason, framed for the public tranquillity. Bills of remission and lenity have almost invariably been introduced by a message from the Crown to this House. I will not attempt to argue at length against the bill, for all arguments would be vain if the Government be resolved to carry it." He contended, however, that "by a settled maxim of the British constitution, nothing was an adequate punishment for treason, a crime leading to the subversion of government, but the total eradication of the traitor, his name, and family, from the society he had injured. *Fuit hæc sapientia quondam*. This was the wisdom of former times. This was the rule of conduct laid down and invariably acted upon. But if a more enlightened age thinks otherwise, I hope equal liberality is to be shown to the heirs of those attainted in former rebellions." He likewise objected strongly to a clause in the bill, for applying part of the accumulated fund arising from the rents of these estates to the completion of the Forth and Clyde Canal, which he denounced as a job, and thus concluded: "I am far from imputing any improper motive to those from whom the measure comes. I know them well, and know their honour to be equal to their great abilities; but it is incumbent on me, sitting on the woolsack, to look with an unbiassed mind to every measure that comes before the House, from whatever quarter, and scrupulously to form my judgment upon it according to the principles of justice and equity. Possibly I may stand single in my sentiments respecting this bill; but I think it my duty to deliver them."

He did not venture to divide; or very likely the Lord Chancellor would have been in the novel situation of having no one to appoint teller on his own side. The bill passed without further opposition.\* The probability is, that the supposed affront arose from the measure being thought so unobjectionable, that the Chancellor, to save trouble, was not consulted about it,—or it might have been discussed at a cabinet when he was asleep. His belief that the King was so devotedly attached to him made him careless about pleasing or displeasing the Minister, and encouraged him to take liberties with the House and with all public men.†

\* 24 Parl. Hist. 1363—1373.

We may know what his opponents at

this time thought might be plausibly imputed to him from the *jeu d'esprit* in the *Rolliad*

In the session of 1785, notwithstanding his former opposition to the same policy, Thurlow now strenuously supported the propositions for a commercial union with Ireland, which do so much honour to the memory of Mr. Pitt, and not only show that he was disposed to govern that country with justice and liberality, but that, being the first disciple of Adam Smith who had been in power, he thoroughly understood, and was resolved to carry into effect, the principles of free trade. The Chancellor treated with infinite contempt the witnesses who appeared at the bar to prove the ruin which would overtake the manufactures of England if the manufactures of Ireland, where labour was so cheap, might come into competition with them. He spared Peel, the head of the cotton-spinners; but he said, that "while the great Wedgwood was a distinguished *potter*, he was a very bad *politician*."<sup>a</sup>

When parliament met in the beginning of 1786, in spite of the general tranquillity and the returning prosperity of the nation an attack was made by Lord Loughborough upon Ministers, respecting their Irish and their Indian policy; but Lord Thurlow defended both very vigorously, and the address was carried without a division.<sup>b</sup> The Opposition Lords do not seem to have offered any resistance to the measures of Government during the remainder of the session. The impeachment of Mr. Hastings was the only subject which now interested the public mind; and this, calling forth unexampled displays of eloquence from Burke and Sheridan, had not yet reached the Upper House.

The session of 1787, though still without any ministerial crisis, was not quite so sluggish. The French commercial treaty concluded with M. de Vergennes, founded on the best principles of international policy, and calculated to draw together, by mutual benefits, two nations between whom, from prohibitory duties and rankling jealousies, there had for centuries only been a succession of wars and truces, being factiously attacked by Lord Loughborough and

entitled "The POLITICAL RECEIPT BOOK for the year 1784:"—

"How to make a Chancellor.

"Take a man of great abilities, with a heart as black as his countenance. Let him possess a rough inflexibility, without the least tincture of generosity or affection, and be as manly as oaths and ill manners can

make him. He should be a man who will act politically with all parties, — hating and deriding every one of the individuals who compose them."—*Rolliad*, 22nd ed. p. 430.

<sup>a</sup> 25 Parl. Hist. 820—885.

<sup>b</sup> Ib. 995. This debate is memorable for being the first in which a legislative Union with Ireland was ever publicly proposed.

other Opposition Peers, was violently defended by the Lord Chancellor. He, as usual, abstained from any expenditure of argument, of which, whether in judging or debating, he was ever penurious; but he asserted, and adjudged, that the treaty was an excellent treaty, and he pronounced all the objections to it to be frivolous and vexatious. He gained a considerable, but undeserved, triumph over Lord Shelburne (now become Marquis of Lansdowne), who had the temerity to interrupt him. Commenting on certain observations respecting the "Family Compact" between France and Spain, and the erection of new fortifications at Cherbourg, Thurlow said, "I maintain, my Lords, that the Family Compact is a treaty which no nation on earth has a right to tell France or Spain they may not make. If Spaniards in France are to be treated as Frenchmen, and Frenchmen in Spain are to be treated as Spaniards, and there is an alliance offensive and defensive between them, why should we murmur? We are told that a remonstrance should be made against the fortifications now carrying on at Cherbourg. Where is the minister who would venture to make such a remonstrance? [*Marquis of Lansdowne.* 'I would.'] By what part of the law of nations have we a right to remonstrate? [*Marquis of Lansdowne.* 'We have no right.'] Then the noble Marquis would do what he confesses he has no right to do; so that he and his application would be laughed at as absurd and ridiculous."<sup>1</sup>

The House, however, soon after for once rebelled against their tyrant. The Duke of Queensberry and the Earl of Abercorn, while representative Peers of Scotland, being created British Peers, Lord Stormont moved a resolution, which he founded on a just construction of the Articles of Union, that they ceased to sit as representatives of the Scotch Peerage; and Dr. Watson, Bishop of Llandaff, ably supported the motion. —*Lord Chancellor*: "Your Lordships are not to listen to supposed or real convenience, to this or that set of men,—nor to consider what an act of parliament ought to be, but what it is. Here you have the Treaty of Union, which contains no such disqualification; and I say you are bound to abide by the letter of it. I must take the liberty of reprehending the noble Viscount for using the arguments with which he introduced

<sup>1</sup> 26 Parl. Hist. 586. We could not have remonstrated on this occasion as we formerly did about the fortifications of Dunkirk,—which, by treaty, were to be demolished; but all warlike preparations may be made the

subject of representation and remonstrance —although the law of nations does not forbid a state to arm all its citizens, and to make all its territory one garrison.

his motion, and the Right Reverend Prelate would have done well to have read the Articles of the Union before he ventured to let loose his opinions on the subject. I insist upon it, my Lords, that giving an English title to a Scotch Peer cannot take away or diminish any one function previously belonging to him, and that he is as fully capacitated to be a representative Peer of Scotland as before." Nevertheless, Lord Loughborough, taking the opposite side, and making out a strong case, as well by the words of the statute as by precedent, the motion, to the great mortification of the Chancellor, and the general surprise of the by-standers, was carried by a majority of 52 to 38.<sup>k</sup>

The Chancellor soon recovered his ascendancy, and, acting on his usual illiberal principles, threw out "a Bill for the Relief of Insolvent Debtors," which, till he spoke, was in great favour with the House. It had been read a second time without opposition; but on the motion for going into a committee upon it, Lord Thurlow, denying that he was so malignant an enemy to the happiness of mankind as to feel a satisfaction in the distress of any portion of his fellow-creatures, pointed out what he called the manifest injustice of breaking in upon that power of "coercion of payment" with which the law had armed the creditor for the security of his property. "If there is to be," said he, "such a thing as imprisonment for debt, it ought to continue unchecked and unrestrained, unless in cases of flagrant oppression and unnecessary cruelty. The general idea, that humanity requires the intervention of the legislature between the debtor and the creditor, is a false notion—founded in error and dangerous in practice. A much greater evil than the loss of liberty is the dissipation and corruption that prevail in our prisons; to these your Lordships had better direct your attention, than to defrauding the creditor of the chance of recovering his property by letting loose his debtor, and taking from him the very hope of payment." So blinded was he by prejudice as not to see that the "dissipation and corruption" of which he complains were produced by the very power of imprisoning which he defended. It is important that such distorted sentiments should be recorded for the use of those who are to write the history of human errors. How delightful to think that, imprisonment for debt being abolished, the site of the Fleet prison, the scene of misery and vice, the description of which, in the pages of Fielding and Smollett, harrows up our souls, is now to be converted into a centre railway

station for the metropolis,—so that those who are henceforth to congregate there, instead of being immured for life in darkness and filth, and forced to resort to ebriety as a temporary relief from despair, may in a few hours be conveyed, for the purposes of useful industry or of innocent recreation, through pure air and over verdant fields, to the remotest extremities of the kingdom!<sup>m</sup> While the perfectibility of our nature must be acknowledged to be a delusion contrary alike to religion and philosophy, the vast improvements which have been made in our social system should stimulate and encourage our efforts to diminish the sum of crime and of suffering, and to raise the standard of intellectual cultivation and of material comfort among mankind.

The public attention now began to be entirely engrossed by the prosecution of Warren Hastings. The opinion of a subsequent generation has been, that this great man, who, in a time of national depression, and amidst appalling dangers, preserved and extended our Indian empire,—although he had committed faults, and even crimes,—upon the whole deserved well of his country, and ought to have been honoured and rewarded. The Opposition, however, misled by exaggerated accounts of his misconduct, eager to recover the popularity which they had lost by the Coalition, and surrendering themselves into the hands of the vengeful Francis and the enthusiastic Burke, became his accusers, and were insensibly involved in the impeachment,—which, notwithstanding the unexampled *éclat* attending it, conferred upon them as a party no lasting credit or solid advantage. The suspicion is, that Pitt, a little alarmed by the high favour shown to Hastings at Court, and not displeased to see his own adversaries waste their strength in exposing the misgovernment of distant regions, instead of attacking his ministerial measures at home,—although he took a just view of the merits of the cause,—with professions of strict impartiality threw the weight of his influence into the scale of the prosecutors. But Thurlow—partly, let us hope, from a belief of the groundlessness of the charges (although he was not supposed to have had leisure or inclination to examine them)—partly to please the King and Queen, who took Mr. and Mrs. Hastings under their special protection”—

<sup>m</sup> Written in 1845, when a bill for this purpose was pending. The scheme was afterwards abandoned as too costly.—4th Edition.

<sup>n</sup> In the libels of the day, this reception

was ascribed less to the King's sense of the services of the husband than to the presents made by his wife to the Queen.—Thus, in the famous Eclogue of "THE LYRARS," we

partly from a desire to find a rival to Pitt, whom he ever regarded with secret enmity—warmly and openly embraced the opposite side; enlarging without qualification on the distinguished virtues and great services of the accused, and supporting him on every occasion “with indecorous violence.” Pitt having professed scruples when the King hinted a wish that Hastings, a few months after his return, should be called to the Upper House, Thurlow treated these scruples with contempt, and said, “there was nothing to prevent the holder of the Great Seal from taking the royal pleasure about a patent of peerage.” So encouraged, Hastings actually chose his barony. Having fulfilled the resolution he had formed when an orphan boy at a village school—to recover the estate which had been for many centuries in his family,—he now took his title from it, and declared that he would be “Lord Daylesford of Daylesford, in the county of Worcester.” But Pitt put an end to all these speculations, after voting for him on the charge respecting the Rohilla war—one of the best established,—by voting against him on the charge respecting the treatment of Cheyte Sing—one of the most unfounded,—although, when it was to be brought forward by Mr. Fox, a Treasury circular had been sent to all the ministerial members, asking them to attend, and vote against it. Great was the astonishment of the friends of Mr. Hastings, and of the whole House; but it is said that, a few hours before the debate began, Pitt received intelligence of the intrigue respecting the peerage, and of Thurlow’s declaration that, under the King’s authority, he would put the Great Seal to the patent without consulting any other minister. The turn was so sudden, that even the Attorney-General divided against the premier; but the impeachment was carried by a majority of 119 to 79. The other articles were voted without difficulty, and on the 14th day of May, 1787, Mr. Burke appeared at the bar of the House of Lords, attended by many members, and, “in the name of the House of Commons and of all the Commons of England, impeached Warren Hastings, Esq., of high crimes and misdemeanors.” Thurlow was at no pains to conceal his disapprobation of the proceeding, and resolved to do every thing in his power to defeat it.

have Banks’s stanza to show the power of gold:—

“Say what that mineral, brought from distant climes,  
Which screens delinquents and absolves their crimes,

Whose dazzling rays confound the space between  
A tainted strumpet and a spotless Queen.”

° Macanlay’s *Ess.* iii. 429.

Mr. Hastings being arrested by the Serjeant-at-Arms of the House of Commons, and handed over to the custody of the Gentleman Usher of the Black Rod, as the officer of the House of Lords,—the Duke of Norfolk proposed that he should be held to bail for 50,000*l.*, but the Lord Chancellor not improperly procured the sum to be reduced to 20,000*l.*, with two sureties in 10,000*l.* each.<sup>p</sup>

The trial did not begin till the 13th of February in the following year. The charge not being capital, no Lord High Steward was appointed; and Lord A.D. 1788. Thurlow, during the time he held the Great Seal, presided over it as Chancellor, or Speaker of the House of Lords, although at the conclusion of it, having been deprived of office, he was the lowest in dignity.

“There have been spectacles,” says Mr. Macaulay, “more dazzling to the eye, more gorgeous with jewellery and cloth of gold, more attractive to grown-up children, than that which was now exhibited at Westminster; but, perhaps, there never was a spectacle so well calculated to strike a highly cultivated, a reflecting, an imaginative mind. Still the various kinds of interest which belong to the near and to the distant, to the present and to the past, were collected on one spot and in one hour. All the talents, and all the accomplishments, which are developed by liberty and civilisation, were now displayed with every advantage that could be derived both from co-operation and from contrast. Every step in the proceedings carried the mind either backward through many troubled centuries to the days when the foundations of our constitution were laid; or far away over boundless seas and deserts to dusky nations, living under strange stars, worshipping strange gods, and writing strange characters from right to left. The High Court of Parliament was to sit, according to forms handed down from the days of the Plantagenets, on an Englishman accused of exercising tyranny over the lord of the holy city of Benares, and over the ladies of the princely House of Oude.”

I could only wish, that in the gorgeous description of the ceremonial which follows—amidst the nobles, judges, orators, statesmen, beauties, artists, and men of letters, who are presented to us, we had been favoured with a view of the rugged Thurlow frowning on the woolsack, shaking his awful locks,—terrible to behold.

After the proclamation was made in Westminster Hall by the crier, that Warren Hastings, Esq., late Governor of Bengal, was now at his trial for high crimes and misdemeanors, with which he was charged by the Commons of Great

Britain, and that all persons who had aught to allege against him were now to stand forth,—a general silence followed, and the Chancellor thus addressed the accused :—

“Warren Hastings, you are brought into this Court to answer to the charges preferred against you by the Knights, Burgesses, and Commons of Great Britain—charges now standing only as allegations, by them to be legally proved or by you to be disproved. Bring forth your answers and defence with that seriousness, respect, and truth, due to accusers so respectable. Time has been allowed you for preparation, proportioned to the intricacies in which the transactions are involved, and to the remote distances whence your documents may have been searched and required. You will still be allowed bail, for the better forwarding your defence, and whatever you can require will still be yours, of time, witnesses, and all things else you may hold necessary. This is not granted you as any indulgence : it is entirely your due : it is the privilege which every British subject has a right to claim, and which may be claimed by every one who is brought before this high tribunal.”

“This speech” (says Madame D’Arblay), “uttered in a calm, equal, solemn manner, and in a voice mellow and penetrating, with eyes keen and black, yet softened into some degree of tenderness, whilst fastened full upon the prisoner,—this speech, its occasion, its portent, and its object, had an effect upon every hearer of producing the most respectful attention, and (out of the committee box at least) the strongest emotions in the cause of Mr. Hastings.”<sup>a</sup>

As the trial proceeded, the first contest which arose was at the conclusion of Mr. Burke’s great opening oration,—“whether each charge should be treated and concluded by speeches and evidence separately, or the Commons should be required to open all the charges, and give all their evidence in support of them, before the accused was called upon to begin his defence?” Mr. Fox strongly recommended the former mode of proceeding, for the sake of convenience and justice, and in pursuance of parliamentary precedent—particularly the trial of Lord Strafford.

<sup>a</sup> It will be recollected that Miss Burney, then in the service of Queen Charlotte, partook of all the feelings of the Court in favour of Mr. Hastings. Describing the scene in Westminster Hall, she goes on to say—“Mr. Windham, then looking still at the spectacle, which indeed is the most splendid I ever saw, arrested his eyes upon the Chancellor. ‘He looks very well from hence,’ cried he : ‘and

how well he acquits himself on these solemn occasions ! With what dignity, what loftiness, what high propriety he comports himself !’ This praise to the Chancellor, who is a known friend to Mr. Hastings, though I believe he would be the last to favour him unjustly now he is on trial, was a pleasant sound to my ear.”



*Lord Chancellor.* "Mr. Burke, whose imagination is of unparalleled fertility, in stating the case against the defendant, has mentioned circumstances of such accumulated horror, and of such deep criminality, that every thing contained in the written articles of accusation before your Lordships sinks in the comparison to utter insignificance, and the Right Hon. manager has unequivocally declared that he has not assumed the privilege of an advocate to exaggerate. After this I shall hold him to the proof of all he has asserted. Acts of such atrocity, my Lords, were imputed to the defendant, that many very respectable persons who were present have not yet recovered, and probably never will recover, the shock they sustained at listening to the relation of them. But in proportion as I am ready to punish Mr. Hastings with severity when lawfully convicted, I must see that he has a full and fair opportunity of vindicating his innocence. This he can only have by hearing all that is to be said or proved against him under all the charges, before he is called upon for his defence. With respect to the usage of parliament, of which we have been told so much, as contradistinguished from the common law, I utterly disclaim all knowledge of it. It has no existence. In times of barbarism, indeed, when to impeach a man was to ruin him by the strong hand of power, the usage of parliament was quoted in order to justify the most arbitrary proceedings. In these enlightened days I hope that no man will be tried but by the law of the land, which is admirably calculated to protect innocence and to punish guilt. The trial of Lord Strafford was, from beginning to end, marked by violence and injustice. A licentious and unprincipled fellow, Pym, attacked that Lord with all the virulence and malignity of faction. The real crime of that great statesman was, that he had quitted his party—as if it were not meritorious to serve the state instead of a faction—as if it were a crime to quit a gang of highwaymen. The Commons may impeach, but your Lordships try the cause; and the same rules of procedure and of evidence which obtain in the Courts below, I am sure will be rigidly followed by your Lordships."

Lord Loughborough strongly supported the opposite side, but was beaten by a majority of 88 to 33,—which very distinctly intimated what, at a distant period, would be the final result of the prosecution.'

Before the King's illness threw the country into confusion, the only other matter of public interest in which Thurlow took part was "African Slavery." A great change of sentiment had taken place since the times when the ASSIENTO treaty was negotiated, securing to us, with the joy and applause of all parties in the state, in addition to our own slave trade, the privilege of supplying with slaves the colonies of other nations. From the immortal efforts of Granville Sharpe, Clarkson, and Wilberforce, the traffic in human flesh now began to

be viewed by many with abhorrence; and even some zealous defenders of whatever is established occasionally doubted whether the practice of acquiring by force or by fraud the possession of human beings, removing them for ever from their native shore, and, after the indescribable horrors of their passage across the ocean, condemning the survivors and their progeny to interminable toil for the profit of strangers, under the stimulus of whipping and torture,—was quite consistent with the dictates of humanity, and with the religion of Jesus, who had taught us to consider and to treat all mankind as brethren, and “to do unto others as we would that they should do unto us.” In the session of 1788 the subject was brought before the House of Commons, and Mr. Pitt, with the fervour and sincerity of youth, supported the views of those who were resolved to free the country from this disgraceful stain.

As a preliminary measure, a bill was passed to mitigate the atrocities of the “Middle Passage,” by enacting that slave-ships should not carry beyond a certain number of slaves in proportion to their tonnage,—evidence having been given at the bar, that in those ships no slave had a space to lie in more than five feet six inches in length, by sixteen inches in breadth; that not only the decks were covered with bodies thus stowed, but that between the decks and the ceiling there were often platforms or broad shelves similarly covered; that the slaves were chained two and two together by their hands and feet, and were fastened by ring bolts to the deck; that the “dancing” boasted of to prove their cheerfulness, consisted in compelling them to jump a certain time daily on the deck in irons for their health; that the mortality among them was appalling; and that sometimes, when not watched, large numbers of them, from despair, leaped overboard and were drowned.\* When the bill came up to the House of Lords, the Chancery opposed it in his peculiar manner, by saying, “that as it stood it was *nonsense*, and that he concluded some amendment would be proposed to correct the *nonsense* of one part of it with the *nonsense* of the other.” He afterwards boldly spoke out, saying—“It appears that the French have offered premiums to encourage the African trade, and that they have succeeded. The natural presumption therefore is, that we ought to do the same. For my part, my Lords, I have no scruple to say that if the ‘five days’ fit of philan-

\* There are several cases in the Law Reports on the question, “whether the under-writers were liable for the death of slaves from suicide?”

thropy' which has just sprung up, and which has slept for twenty years together, were allowed to sleep one summer longer, it would appear to me rather more wise than thus to take up a subject piece-meal, which it has been publicly declared ought not to be agitated at all till next session of parliament. Perhaps, by such imprudence, the slaves themselves may be prompted, by their own authority, to proceed at once to 'a total and immediate abolition of the trade.' One witness has come to your Lordships' bar with a face of woe—his eyes full of tears, and his countenance fraught with horror, and said, 'My Lords, I am ruined if you pass this bill! I have risked 30,000*l.* on the trade this year! It is all I have been able to gain by my industry, and if I lose it I must go to the hospital!' I desire of you to think of such things, my Lords, in your humane phrensy, and to show some humanity to the whites as well as to the negroes." But Mr. Pitt would not allow the Government to be disgraced by the rejection of the bill. It passed the Lords, with some amendments for granting compensation; and these being objected to by the Commons on the score of privilege, another bill to the same effect passed both Houses and received the royal assent.<sup>1</sup>

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## CHAPTER CLX.

CONTINUATION OF THE LIFE OF LORD THURLOW TILL HE WAS FINALLY  
DISMISSED FROM THE OFFICE OF CHANCELLOR.

IN the midst of profound tranquillity at home and abroad, the nation was suddenly thrown into a state of the greatest consternation and alarm by the avowal A.D. 1788. of his Majesty's complete incapacity to exercise any of the functions of his high office. It is now known that he had laboured under a similar illness, for a few weeks, in the year 1765, which was the cause of the regency bill then passed; but the fact was successfully concealed from the public.<sup>2</sup> The symptoms now returned upon him, at first rather gradually,

<sup>1</sup> 27 Parl. Hist. 638—649.

<sup>2</sup> It had been stated by Smollett, in his history of the commencement of this reign; but only a few copies containing the state-

ment were sold; they were eagerly bought up by the Government, and the faint whisper which they caused died away.—*Adolphus*, i. 177.

causing unexampled embarrassment to his Ministers. Near the close of the preceding session of parliament his Majesty was occasionally in a very excited state, and when he returned from his visit to Cheltenham there appeared still greater cause for apprehension. Parliament stood prorogued to the 25th of September.

When that day approached, the King had still intervals of clear understanding, and exhibited demonstrations of accurate perception and an undiminished power of reasoning. A council was held, which went off very quietly,—when an order was made for a further prorogation, and his Majesty signed a warrant for a commission to pass the Great Seal for that purpose, and parliament was, with the usual solemnities, prorogued by the Lord Chancellor till the 20th of November, *then to meet for the despatch of business.*

At a levee held at St. James's before that day arrived, his Majesty's conversation and demeanour clearly indicated to all who were present the nature of his malady. It was immediately after necessary to put him under restraint; his life for some days was considered to be in imminent danger,—and when this paroxysm subsided, he was still totally and constantly deprived of the use of reason. The royal sufferer was removed first to Windsor, and afterwards to Kew,—where he was put under the care of Dr. Willis, and other physicians supposed to be best acquainted with the treatment of alienation of mind.

Mr. Pitt, whether right or wrong in the opinion he formed, resolved at once, in a direct and straightforward manner, to delay as long as possible the transfer of the power of the Crown to the Prince of Wales, now leagued with the Whigs, and looked upon with distrust by the nation on account of his profligate habits;—to limit materially the exercise of the royal prerogative in the Prince's hands;—to intrust the custody of the King's person, and the patronage of the royal household, to the Queen;—and, for these purposes, to contend that the two Houses of Parliament had the right to appoint a Regent, and to define and restrain the authority under which he was to act. The Prime Minister, assuming for certain that he himself would be dismissed on the accession of the Regent, and wishing to diminish the influence of his successor, had to struggle boldly for a crippled regency,—on the ostensible ground that the rights of the Sovereign supposed to be on the throne might otherwise be endangered.

But the Chancellor was in sad perplexity. Although, only a few weeks before, he thought that he held the Great Seal for life, the dreadful thought now arose that it would be snatched from him by his rival, who had lately seemed for ever destined to the punishment of listening to the drowsy serjeants in the Court of Common Pleas. But Thurlow began to consider with himself whether, having been Chancellor under Lord Rockingham as well as under Lord North, he might not be Chancellor under Mr. Fox as well as under Mr. Pitt. Mr. Fox had not yet returned from his Italian tour, and the Prince's affairs were under the direction of Sheridan and other Whig leaders, who were impatient to see the Prince installed as Regent, who highly disrelished the threatened restrictions, who perceived how useful Thurlow might be if gained over in furthering these objects, who dexterously guessed at his longings and cogitations, and who formed a just estimate of his regard for honour and consistency.

The intrigue with Thurlow is supposed to have been first suggested by Captain Payne, the comptroller of the Prince's household. In a letter to Sheridan he said, "I think the Chancellor might take a good opportunity to break with his colleagues if they propose restriction. The law authority would have great weight with us, as well as preventing even a design of moving the city." In consequence, a negotiation with the Chancellor was opened, to which the Prince himself was a party. The legal dignitary seemed very placable, and not much disinclined to the doctrine that "the Prince ought to be declared unrestricted Regent," although he took special care, at first, to deal only in general verbal assurances, without entering into any specific engagement.\* In this state of affairs, Captain Payne, again addressing Sheridan, said, "I inclose you the copy of a letter the Prince has just written to the Chancellor, and sent by express, which will give you the outline of the conversation with the Prince, as well as the situation of the King's health. I think it an advisable measure, as it is a sword that cuts both ways, without being unfit to be shown to whom he pleases, but which I think he will understand best himself."

Thurlow, before he would proceed further, required a dis-

\* "He studiously sought intercourse with the Prince of Wales, that he might have an opportunity of conveying to him his sentiments on his Royal Highness's situation. He recommended to him to lie upon his oars,—to

show no impatience to assume the powers of royalty. He pointed out to him that if the King's illness were of any considerable duration, the regency must necessarily devolve upon him."—*Nich. Recoll.* 71.

tinct promise that under the Regency he should retain the Great Seal. This at first caused much difficulty, for Lord Loughborough had been acting with the Whigs ever since the formation of the Coalition Ministry; a five years' opposition had made them forget all former differences, and it was well understood that he was to gain the grand object of his ambition if they ever came into power. Sheridan, however, advised that, without consulting him, Thurlow, who spurned at the Presidency of the Council, should be bought at his own price, and the bargain was nearly concluded that Thurlow, in consideration of being appointed Chancellor under the Prince when Regent, should support the right of the Prince to succeed to the Regency without restriction.

This was the state of affairs when Fox arrived from Italy. Recollecting what had happened during the Rockingham administration, he had an absolute horror of Thurlow, and heard of the promise given to him with the most bitter regret. However, as things had gone so far, he wrote the following letter to Sheridan, showing his distrust as well as his acquiescence :—

“ Dear Sheridan,

“ I have swallowed the pill—a most bitter one it was—and have written to Lord Loughborough, whose answer of course must be *consent*. What is to be done next? Should the Prince himself, you, or I, or Warren, be the person to speak to the Chancellor? The objection to the last is, that he must probably wait for an opportunity, and that no time is to be lost. Pray tell me what is to be done. I am convinced after all that the negotiation will not succeed, and am not sure that I am sorry for it. I do not remember ever feeling so uneasy about any political thing I ever did in my life.”

On hearing of this intrigue, so fatal to his hopes, Lord Loughborough wrote the following letter to Sheridan, by which he tried to counteract it, without disclosing the deep resentment which he felt :—

“ My dear S.

“ I was afraid to continue the conversation on the circumstance of the inspection committed to the Chancellor, lest the reflections that arise upon it might have made too strong an impression on some of our neighbours last night. It does indeed appear to me full of mischief, and of that sort most likely to affect the apprehensions of our friends (Lord John for instance), and to increase their reluctance to take any active part.

"The Chancellor's object evidently is to make his way by himself, and he has managed hitherto as one very well practised in that game. His conversations both with you and Mr. Fox were encouraging, but at the same time checked all explanations on his part, under a pretence of delicacy towards his colleagues. When he let them go to Salthill, and contrived to dine at Windsor, he certainly took a step that most men would have felt not very delicate in its appearance, and, unless there was some private understanding between him and them, not altogether fair, especially if you add to it the sort of conversation he held with regard to them. I cannot help thinking that the difficulties of managing the patient have been invented or improved to lead to the proposal of his inspection (without the Prince being conscious of it), for by that situation he gains an easy and frequent access to him, and an opportunity of possessing the confidence of the Queen. I believe this the more from the account of the tenderness he showed at his first interview, for I am sure it is not his character to feel any. With a little instruction from Lord Hawkesbury, the sort of management that was carried on by means of the Princess Dowager in the early part of the reign may easily be practised. In short, I think he will try to find the key of the back stairs—and, with that in his pocket, take any situation that preserves his access, and enables him to hold a line between different parties. In the present moment, however, he has taken a position that puts the command of the House of Lords in his hands.

"I wish Mr. Fox and you would give these considerations what weight you think they deserve, and try if any means can be taken to remedy this mischief, if it appears in the same light to you."

This surely must be an exaggerated picture of Thurlow's craft and duplicity;—otherwise, since the time of Richard III., these qualities have not been exhibited in such extraordinary relief by any character in English history. The Chancellor is here represented as interfering with the proper management of the illustrious patient for his own sinister ends,—when admitted to the presence of his afflicted Sovereign, although untouched by the melancholy spectacle, and only anxious about the personal advantages he might derive from it, hypocritically throwing himself into an agony of tears,—plotting alike against his present colleagues, and the party whom he pretended to be about to join,—and appearing by turns to be devoted to his old royal Master—to the Queen—to the Prince—to the Tories, and to the Whigs—ready to betray them all.<sup>7</sup> However much this letter might strengthen the

<sup>7</sup> It must be admitted that Lord Loughborough is powerfully corroborated by the very picturesque account we have of "the weeping scene" from Miss Burney, who, then in attendance on the Queen, actually witnessed it:—"It was decreed that the King should be seen both by the Chancellor and Mr. Pitt. The Chancellor went into his

suspicious, entertained by the Prince's friends, of Thurlow's sincerity, it did not induce them to break off the treaty with him, and if he supported them in the impending discussions in parliament, the Great Seal was to be his.

The King being confined at Windsor, the Queen and the Prince, in opposite interests, had both taken up their residence here, and here Mr. Pitt and the Ministers from time to time held their councils. These arrangements were highly convenient to Thurlow, for, by going through cloisters and dark corridors to different sets of apartments in the Castle, he could hold a private conference with either party without letting it be known that he communicated with the other. Mr. Pitt was at first duped by such artifices, but suddenly came to the full knowledge of his colleague's perfidy. The exact circumstances of the discovery are variously related, although all accounts agree in stating that it took place at a meeting of the Ministers in Windsor Castle, and that it arose from a mistake which the Chancellor made respecting his hat. Some say that he entered the room, having under his arm the Prince's hat, which he had in the hurry carried off from the Prince's closet instead of his own;—others, that he walked into the room without a hat, and that soon after one of the Prince's pages brought him his own hat, saying that his Lordship had left it behind when he took leave of his Royal Highness;—and others, that entering without his hat, and being reminded of it, he immediately said he supposed he must have left it in another part of the castle, where he had been paying a visit—whereupon the looks of those present immediately made him conscious of the disclosure he had made.\* But I have received the following account of the discovery from a quarter entitled to the most implicit credit:—"When a council was to be held at Windsor to determine the course which Ministers should pursue, Thurlow had been there some time before any

presence with a tremour such as before he had been only accustomed to inspire; and when he came out he was so extremely affected by the state in which he saw his royal master and patron, that the tears ran down his cheeks, and his feet had difficulty to support him. Mr. Pitt was more composed, but expressed his grief with so much respect and attachment, that it added new weight to the universal admiration with which he is here beheld."—*Madame D'Arblay's Diary*, part vii. 338.

The Chancellor seems to have possessed powers of acting grief not inferior to those of the player in *Hamlet*, who—

"But in a fiction, in a dream of passion,  
Could form his soul so to his own conceit,  
That from her working all his visage  
wann'd,  
Tears in his eyes, distraction in his aspect,  
A broken voice, and his whole function  
smiting  
With forms to his conceit."

\* Moore's *Life of Sheridan*, ii. 31: *Law Mag.* vii. 73, 74



of his colleagues arrived. He was to be brought back to London by one of them, and the moment of departure being come, the Chancellor's hat was nowhere to be found. After a fruitless search in the apartment where the council had been held, a page came with the hat in his hand, saying aloud, and with great *naïveté*, 'My Lord, I found it in the closet of his Royal Highness the Prince of Wales!' The other Ministers were still in the Hall, and Thurlow's confusion corroborated the inference which they drew."<sup>a</sup>

Mr. Pitt, though now fully aware of his designs, could not immediately throw him off, and still seemed to the public cordially to co-operate with him,—but thenceforth withdrew all confidence from him, and intrusted to Lord Camden the conduct in the House of Lords of all the measures for the establishment of the Regency.

The first debate upon the subject was when, after the examination of the physicians, proving the King's incapacity personally to exercise the functions of government, Lord Camden moved for a committee to search for precedents. Lord Loughborough, on whose legal and constitutional advice the Whigs acted, now reprobated the doctrine broached in the other House, "that the Prince of Wales, the heir apparent to the throne, had no more right to take upon himself the government, during the continuance of the unhappy malady which incapacitated his Majesty, than any other individual subject." He contended strenuously that the regency was not elective; that the two Houses could not interfere with the appointment of the person to exercise the functions of royalty, except upon a total subversion of the government as at the Revolution, or upon the failure of the royal line by the King dying without an heir; that as the two Houses at present confessedly could not pass a turnpike act, much less could they pass an act which might produce a change of the dynasty to fill the throne; and that the heir apparent had a right, during the interruption of the personal exercise of the royal authority, to assume the reins of government—not rashly or violently, but on the authentic notification to him by the two Houses of his Majesty's unfortunate incapacity.

Thurlow was sorely perplexed as to the course he should pursue. Although Dr. Willis gave hopes of the King's speedy recovery, the general opinion at this time was that his malady

<sup>a</sup> The Right Honourable Thomas Grenville, who, having played at skittles with Lord Chatham, is since dead, at the age of 90.

was incurable—in which case the Prince of Wales must ere long be Regent, with all the patronage of the Crown. He probably was inclined to assert the Prince's right in still more peremptory terms, and to outbid his rival for the Prince's favour. But he could not do so without openly breaking with Mr. Pitt, who had the entire confidence of the Queen, and was sure to be more powerful than ever if his Majesty should indeed be restored. He therefore contented himself, for the present, with appearing to oppose—but opposing very gently—Lord Loughborough's argument, saying “that the doctrine of the Prince's right was new; that the discussion was premature; that the question ought not to be in any degree preoccupied; that such a debate would only afford a subject for a frivolous paragraph in a newspaper; that their Lordships had begun at the wrong end, trying to draw the conclusion before they had settled the premises; that no objection could possibly be made to the motion of the President of the Council for a committee to inquire; and that, it being impossible to separate the natural and political character and capacity of the King, while the crown remained firmly fixed on his Majesty's head, the appointment of a Regent must prove a consummation beyond expression difficult.”<sup>b</sup> The motion was carried without a division, and for a little while longer Thurlow contrived to keep on decent terms with both parties, giving each hopes of his support, and enjoying the chance of the favour of both. But this double-dealing led him daily into greater perplexities: he saw the danger in a protracted struggle of being himself disgraced, whichever side might prosper; and it is said that he had exclusive information from Dr. Willis of some symptoms in his Majesty's health, which justified a more probable hope of his recovery than had been hitherto entertained.

Accordingly the next time the subject was brought forward in the House of Lords, the Duke of York having made a very sensible speech, renouncing, in the name of his brother, any claim not derived from the will of the people, and lamenting the dreadful calamity which had fallen upon the royal family and upon the nation,—the Lord Chancellor left the woolsack seemingly in a state of great emotion, and delivered a most pathetic address to the House. His voice, broken at first, recovered its clearness,—but this was from the relief afforded to him by a flood of tears. He declared his fixed and unalterable resolution to stand by a Sovereign who, through a

reign of twenty-seven years, had proved his sacred regard to the principles which seated his family on the British throne. He at last worked himself up to this celebrated climax:—"A noble Viscount (Stormont) has, in an eloquent and energetic manner, expressed his feelings on the present melancholy situation of his Majesty,—feelings rendered more poignant from the noble Viscount's having been in habits of personally receiving marks of indulgence and kindness from his suffering Sovereign. My own sorrow, my Lords, is aggravated by the same cause. My debt of gratitude is indeed ample for the many favours which have been graciously conferred upon me by his Majesty; AND WHEN I FORGET MY SOVEREIGN, MAY MY GOD FORGET ME!" "GOD FORGET YOU!" muttered Wilkes, who happened then to be seated on the steps of the throne,—eyeing him askance with his inhuman squint and demoniac grin,—“GOD FORGET YOU! HE'LL SEE YOU D——D FIRST.”

When the resolution to which the Commons had agreed was moved, “That it is the right and duty of the Lords Spiritual and Temporal, and Commons of Great Britain, now assembled, and lawfully, fully, and freely representing all the estates of the people of this realm, to provide the means of supplying the defect of the personal exercise of the royal authority, arising from his Majesty's indisposition, in such manner as the exigency of the case may appear to them to require,”—and Lord Rawdon (afterwards Marquis of Hastings) having moved an amendment, “That an humble address be presented to his Royal Highness the Prince of Wales, praying his Royal Highness to take upon himself, as sole Regent, the administration of the executive government in the King's name during his Majesty's indisposition,” Thurlow, without any reserve, supported the resolution, and inveighed against the amendment. Knowing well that it had been framed very carefully by Lord Loughborough, who had spoken ably in defence of it, he said,—

“I am glad to think that the words of this amendment cannot have been supplied by the noble and learned Lord, the Chief Justice of the Common Pleas, for they are not only irreconcilable with the arguments of that great magistrate, but they convey no distinct or precise meaning whatever. I wish that some one, who professes to understand them, had explained their meaning, and given us something like a reason to show their propriety. I beg to know, what is the meaning of the term ‘REGENT?’ Where shall I see it defined? in what law-book, or in what

statute? I have heard of 'Grand Justiciars,' of '*Custodes Regni*,' of 'Lieutenants for the King,' of 'Guardians,' of 'Protectors,' of 'Lords Justices;' but I know nothing of the office or functions of a 'REGENT.' To what end, then, would it be to ask the Prince to take upon himself an office, the boundaries of which are wholly unascertained? The amendment, to be sure, states that what the Prince, as sole Regent, is to be prayed to take upon himself, is 'the administration of the executive government.' Here, again, the expression is dark and equivocal. What is meant by the 'executive government?' Does it mean the whole royal authority? Does it mean the power of legislation? Does it mean all the Sovereign's functions, without restriction or limitation of any kind? If this had been fully expressed, would any noble Lord have contended that it did not amount to the actual dethroning of his Majesty, and wresting the sceptre out of his hand? No man entertains a higher respect for the Prince than I do; I wish him as well as those who affect to be more mindful of his interests; but I deny that, as heir apparent, he has any inherent right to the regency. It is our duty to preserve the Crown safe on the head of the Sovereign, so that when, in the due course of nature, it shall descend to the Prince of Wales, he may receive it solid and entire, such as it was when worn by his Sire."

On a division, the amendment was negatived by a majority of 99 to 66.<sup>d</sup>

Next, a proceeding took place which I will not venture to condemn, but which was certainly very anomalous, and, I conceive, unnecessary; for if the two Houses had the right claimed by them to elect a regent, why should they not have passed an Ordinance for that purpose by their own mere authority, without the false assertion that it was by a regular act of legislation to which the King was a party?<sup>e</sup> There is nothing better settled by our law, than that the Great Seal can only be used to express the will of the Sovereign on the throne; and infinite precautions are resorted to for the purpose of preventing the use of it without his personal intervention.<sup>f</sup> To counterfeit the Great Seal is high treason,—and to affix the true Great Seal to any instrument without the King's authority is not subjected to the like penalty, only because the offence is supposed to be impossible. But, while George III. was under the care of Dr. Willis, Edward Lord Thurlow affixed the Great Seal of Great Britain to a commission, authorising certain prelates and peers to open the parlia-

<sup>d</sup> 27 Parl. Hist. 852—891.

<sup>e</sup> The joint resolution of the two Houses, ordering the commission, required that the authority for putting the Great Seal to it should be thus falsely stated: "By the King

himself, with the advice of the Lords Spiritual and Temporal and Commons assembled, according to the prorogation aforesaid."

<sup>f</sup> See ante Vol. I. Introduction

ment in the King's name, and to declare the causes of parliament being summoned.

On account of a severe fit of illness, the Chancellor was not himself present at the ceremony of opening the parliament under the authority of the "*Phantom*," and the Lords Commissioners' speech was delivered by ex-Chancellor Earl Bathurst.<sup>g</sup>

At this time, although Thurlow had ceased to have any communication with Carlton House, and Mr. Pitt looked upon him with much suspicion, he enjoyed the highest confidence and favour with the Queen, and she implicitly followed his advice in all her proceedings respecting the formation of the Regency,—that she might have the custody of the King's person, and the nomination to all the offices in the household. The Prince of Wales having remonstrated with her upon the danger to the monarchy from so materially reducing the power and influence of the Crown, she employed Thurlow to prepare an answer in her name. The following note conveyed her thanks to him for his exertions on this occasion:—

"My Lord,

"I am this instant returned from the King, which is the reason of your servant being detained so long. I return you many thanks for the trouble you have taken in forming so useful an answer for me to the Prince of Wales, which I intend sending to-morrow morning. I am extremely sorry to hear of your indisposition, and I hope you will believe me when I say that nobody does more sincerely interest themselves in your recovery and welfare than myself.

• "CHARLOTTE.

"Kew, January the 31st, 1789." <sup>h</sup>

When the Commons sent up the Regency Bill (to which it was intended to give the royal assent by the "*Phantom*")—Thurlow strenuously supported all the restrictions put upon the power of the Regent, and the clause vesting in the Queen the nomination of all the officers of the household. Upon the last point he was particularly eloquent and touching:—

<sup>g</sup> 27 Parl. Hist. 1163. One of the most ludicrous difficulties in which the House of Commons was now involved arose from the sudden death of Speaker Cornwall, and the election of Mr. W. Grenville to succeed him. Regularly, the new Speaker should have been approved by the King, and should have prayed for a continuance of the rights and privileges of the Commons. Burke said, "They had just set up a '*phantom*' to represent the

Great Seal, and now their Speaker was to bow before it, and to claim their rights and privileges from a creature of their own creation." However, they altogether waived the ceremony.—27 Parl. Hist. 1161.

<sup>h</sup> The original, in a very distinct pretty hand, lies before me. Queen Charlotte not only gained a familiar acquaintance with our language, but became in all respects a good Englishwoman.

"My opinion, my Lords," said he, "is, that all which belongs to the household must, at the same time with the care of the King's person, be put under her Majesty's control and management. To preserve the King's dignity, all his royal attendants must be kept about him. If you deprive the King of his accustomed splendour, you may as well treat him as a parish pauper—put him on board wages, or send him to one of those receptacles that take in unfortunate people at a small charge. This would be the only way to prevent the royal household going to the Queen—but then you are losing your time in contriving means of restoring his Majesty to the throne on his recovery, for you never can expect a cure. Remember, my Lords, that the Queen is to have the care of her royal patient, not as a wretched outcast, an obscure individual, without friends, without a name, without reputation, without honour—but as a King to whom his people look up with loyalty, with affection, and with anxious wishes that he may soon be enabled to reascend his throne, and again spread blessings over the land he governs. As far as my voice can go, and I shall lift it up loudly and sincerely," [here he rolled out his sentences majestically, and shook his awe-inspiring eyebrows,] "I claim for the King all the dignity that ought to attend a royal person, who is entitled to every comfort that can be administered to him in the hour of his calamity. And who shall dare to refuse my demand? It would, it ought, and it must mortify the Queen if the King were turned over to her in an unfeeling and irreverent fashion—destitute of every mark and remnant of royal state. Is there a man who hears me, who possesses the sensibility common to every human breast, who does not sympathise with her Majesty?" [Here he began to be much affected.] "I protest to God I do not believe there is a noble Lord in the House who wishes to reduce to such a forlorn condition a King labouring under a misfortune, equal to any misfortune that ever happened since misfortune was known in the world. To hesitate about giving the household to the Queen, would show a total extinction of pity for that royal sufferer, whose calamity entitles him to the most unlimited compassion, and even to increased respect:

‘Deserted in his utmost need  
By those his former bounty fed.’”

Here the orator burst into tears, and he resumed his seat on the woolsack as if still unable to give vent by language to his tenderness.\*

These exhibitions were probably pretty justly appreciated

i 27 Parl. Hist. 1081, 1082, 1085.

\* Thurlow alluded to Burke's speech in the House of Commons: "It had been asked, would they strip the King of every mark of royalty, and transfer all the dignities of the Crown to another person? No, Heaven forbid! where the person wearing the crown could lend a grace to those dignities, and derive a lustre from the splendour of his house-

hold. But did they recollect that they were talking of a sick King, of a monarch smitten by the hand of Omnipotence, and that the Almighty had buried him from his throne and plunged him into a condition which drew down upon him the pity of the meanest peasant in his kingdom?"—Burke was called to order for these words, and certainly they are not in the best taste.

in the House of Lords, where the actor was known, and they must have caused a little internal tittering, although no noble Lord would venture openly to treat them with ridicule. But they made a prodigious impression on the public. His Majesty was now very popular, particularly contrasted with the Heir Apparent, and his calamity did excite deep sympathy in the great bulk of the nation. There was a general apprehension that, if the Prince's friends once got into power, the good old King would soon be treated as irrecoverable. Thurlow was therefore hailed as a champion of the rights of the Sovereign, and he was supposed to be disinterestedly standing up for his afflicted Master, designedly and nobly sacrificing all prospect of power for the rest of his days. Men compared him to the Earl of Kent in "Lear," and, thinking they had found in real life an exemplification of the devoted attachment which the poet had imagined, were delighted to see the friendship which had long subsisted between the Sovereign and his Chancellor, though obscured in the alienated mind of the afflicted George, still burning in the honest bosom of the faithful Thurlow.<sup>m</sup>

Scme, however, ironically exclaimed,—

. . . . "He cannot flatter, he!  
An honest mind and plain—he must speak truth!  
— These kind of knaves I know, which in this plainness  
Harbour more craft and more corrupter ends  
Than twenty silly ducking observants,  
That stretch their duties nicely."

A few days after this last lachrymose scene, Burke said openly in the House of Commons—"The Lords had perhaps not yet recovered from that extraordinary burst of the pathetic which had been exhibited before them the other evening: they had not yet dried their eyes or been restored to their former placidity, and were unqualified to attend to new business. The tears shed in that House on the occasion to which he alluded, were not the tears of patriots for dying laws, but of Lords for their expiring places. The iron tears which flowed down Pluto's cheek rather resembled the dismal bubbling of the Styx, than the gentle murmuring streams of Aganippe."<sup>n</sup>

<sup>m</sup> Thus wrote his old companion Cowper, who might have known him better: "In his counsels, under the blessing of Providence, the remedy is, I believe, to be found, if a

remedy there be. His integrity, firmness, and sagacity, are the only human means that seem adequate to the great emergence."

<sup>n</sup> Burke's Speeches, iii. 382.

On another occasion, Burke descended so low as to draw a caricature likeness of the Chancellor for the amusement of the House of Commons. Commenting on the scheme by which the phantom of royalty was to be raised by touching the Great Seal, he said—"What is to be done when the Crown is in a deliquium? It was intended, he had heard, to set up a man with black brows and a large wig, a kind of scarecrow to the two Houses, who was to give a fictitious assent in the royal name, and this to be binding on the people."° He added,— "I have given my allegiance already to the House of Hanover. I worship the gods of our glorious Constitution, but I will not worship PRIAPUS."

Alas! the Whigs were disappointed, and the laugh was finally with the object of their vituperation. When the Regency Bill, with its restrictive clauses, had been read a second time in the House of Lords, and had made some progress in the committee, rumours were publicly spread that the King's malady was abating; and on the 19th of February, as soon as prayers were over, the Lord Chancellor left the wool-sack, and said,— "The intelligence from Kew was that day so favourable, every noble Lord would agree with him in acknowledging that it would be indecent to proceed farther with the bill when it might become wholly unnecessary. Amidst the general joy which the expectation of his Majesty's speedy return must occasion, he would therefore move the adjournment of the committee." This was agreed to, and the House rose.

On a subsequent day the Chancellor declared that he had lately been as much as an hour and a quarter with the King, and that very day a full hour—when he had found his mind to be clear and distinct, and that he appeared perfectly capable of conversing on any subject that might be proposed to him. The committee was several times adjourned, and at last, on the 10th of March, there was produced a commission to which the Great Seal had been regularly put, under a warrant, signed by the King himself, authorising the same commissioners named in the sham commission "to open and declare certain farther causes for holding this parliament." Then the Commons being summoned, and the commission read, the Chancellor, one of the commissioners, said, "His Majesty, being, by the blessing of Providence, recovered from the severe indisposition with which he has been afflicted, and being

° Burke's Speeches, iii. 361.



enabled to attend to the public affairs of this kingdom, has commanded us to convey to you his warmest acknowledgments for the additional proofs which you have given of your affectionate attachment to his person, and of your zealous concern for the honour and interest of his crown, and the security and good government of his dominions."

Thurlow retained the Great Seal, but his character was seriously injured. Although he impressed on the Queen, and on the King when recovered, a conviction of his zeal to comply with their wishes, his colleagues, as well as his opponents, were fully aware of his insincerity, and by degrees the full extent of his double-dealing during the King's illness became known to the whole nation.

From this time he fostered a deep enmity to Mr. Pitt, which he was at no pains to conceal. Considering himself the personal "friend," and most cherished minister, of the King,—boasting that the House of Lords was entirely under his control,—and unconscious of his reputation with the public,—he greatly over-estimated his political importance, and was disposed to set himself up as the rival of the man who, by splendid eloquence and spotless character, now ruled the House of Commons, and who, with the exception of the Whigs (lamentably reduced in numbers), was respected and supported by the whole nation.

The Prime Minister had no desire to quarrel with the Chancellor, but was resolved to keep him in due subordination. For the present, therefore, he contented himself with submitting a goodhumoured representation to the King, which praised the Chancellor's abilities and services, but, hinting at his waywardness, stated how desirable it was that there should be entire cordiality among the members of the Cabinet. "The King wrote to Thurlow on the subject, and received such an answer as led him confidently to hope that Mr. Pitt would have no reason to complain again on this subject." <sup>p</sup>

P Tomline's Life of Pitt, ii. 513. It would appear from the "Rolliad," that even before the King's illness the public believed that Thurlow went on very uncomfortably with the Cabinet, and that there was a great desire to turn him out. In the "JOURNAL of the Right Hon. HENRY DUNNAS," we have the following entry:—"March 9th, 1788. Got Thurlow to dine with us at Wimbledon—gave him my best Burgundy and blasphemy, to

put him into good humour. After a brace of bottles, ventured to drop a hint of business—Thurlow damned me, and asked Pitt for a sentiment [toast]. Pitt looked foolish—Grenville wise." After an account of the other members of the Cabinet, he proceeds with the Chancellor: "Thurlow very queer. He swore the bill [India Declaratory Bill, then pending in parliament] is absurd, and a correspondence with those cursed directors

For two or three years the Government went on pretty smoothly; Thurlow, although discontented and sulky, abstaining from any public attack on the Government—but watching for an opportunity of showing his sense of the supposed ingratitude of the young man he pretended to have patronised and promoted.

Their first open quarrel was on the appointment, as Master of the Rolls, of an individual against whom Thurlow was known to have a mortal spite. When Mr. Pitt first proposed this, the object of his favour handsomely wished to decline it, saying that “he was sure it would be disagreeable to Lord Thurlow.” The Prime Minister replied, “Pepper, you shall be Master of the Rolls; and as to Thurlow, I may just as well quarrel on that as on any other subject with him.” The Chancellor, on hearing of the appointment, said, “My time will be spent in reversing that fellow’s decrees. I look upon my Court and that of the Rolls to be somewhat like a stage-coach, which, besides the skill of the coachman, requires the assistance of an able postilion to lead the horses, and pick out the best part of the roads. Now if I get an ignorant furze-bush-headed postilion, he may overset the coach, and tumble us both into the ditch.”

The Chancellor was now sulky and silent. In the first session after the King’s recovery he did not once interfere for the Government, unless in repressing an irregular conversation commenced by Lord Stormont, about the treaty with Prussia;<sup>a</sup> and he testified his contempt for the part taken by his colleagues in the other House by throwing out, on the first reading, Mr. Beaufoy’s bill, which Mr. Pitt had sanctioned in the Commons, for celebrating the centenary of the Revolution.<sup>f</sup>

damned stupid. However, will vote and speak with us.—Pitt quite sick of him—says ‘he growls at every thing, proposes nothing, and supports every thing.’ N.B.—Must look out for a new Chancellor—Scott might do, but cants too much about his independence and his conscience—what the devil has he to do with independence and conscience?—besides, he has a snivelling trick of retracting when he is caught in a lie—hate such puling fellows. GEORGE HARDINGE not much better—must try him though—will order him to speak on Wednesday.” *Rolliad*, 22nd ed. p. 516. George Hardinge had not answered, for he died a Welsh Judge.

<sup>a</sup> 28 *Parl. Hist.* 133.

<sup>f</sup> The motion (so unusual, and so affronting to the House of Commons) for throwing out the bill in this stage being made by the Bishop of Bangor, was warmly supported by the Lord Chancellor, and carried by a majority of 13 to 6.—28 *Parl. Hist.* 296. The deliverance of the nation from slavery and popery was celebrated in Scotland, without an act of parliament, by the authority of the Church, when Dr. Robertson delivered the sermon in the hearing of Lord Brougham, then a boy—of which his Lordship has given us such an interesting account in the *Life* of his distinguished kinsman (*Men of Letters*, 270).

But (wonderful to relate!) he allowed to pass through the House without opposition a bill, remarkable as the first that passed to mitigate the atrocious severity of our criminal code—enacting that women convicted of high or petty treason, instead of being burnt to death, as they had hitherto been, should be hanged.\*

During the whole of the following session, he never opened his mouth, except upon Lord Hawkesbury's complaint of having been obstructed by the military <sup>A.D. 1790.</sup> when coming down to attend the service of the House. The Lord Chancellor took up this matter very warmly, insisting that, for such an insult, no apology could be accepted, and that their Lordships must, in justice to themselves, institute inquiries for the purpose of discovering and punishing the delinquents.†

Since the formation of the present Government, Thurlow had hitherto been considered its organ in the House of Lords; but Mr. Pitt declared, that he was never quite certain what part in debate the Chancellor would take, and, less quiet times being in prospect, he was very unhappy lest some important measure, on which depended his reputation and his stability, might be defeated, after being carried triumphantly through the House of Commons.‡ He therefore resolved, at the meeting of the new parliament in Nov. 1790, to have in the House of Lords a new leader, in whom he could place confidence. The person proposed for this post was Mr. William Grenville, who had been Speaker of the House of Commons, and, not giving satisfaction in that office, had been taken into the Cabinet, and was giving striking proofs of his talents as a statesman.§ The King, unwittingly thinking that the arrangement would be agreeable to the Chancellor, by saving him trouble, at once consented to it, without consulting him; and Lord Grenville took his seat on the ministerial bench. Thurlow was deeply mortified, but, having no plausible cause of quarrel, he for the present concealed his chagrin. Still he persuaded himself that he held the first place in the King's favour, and he hoped that he might, ere long, be able to

\* See 4 Adolph. 484.

† 28 Parl. Hist. 874.

‡ The Marquis of Stafford, and other common friends, had repeatedly remonstrated with Thurlow respecting his demeanour to Pitt, but entirely without effect.—*Tomline's Life of Pitt*, ii. 513.

§ I have heard the late Lord Holland several times say, that considerable abilities are not well adapted to the chair of the House of Commons; for all the Speakers in his time had been pronounced "excellent," except Lord GRENVILLE; and he failed, although the only clever man among them.

avenge himself for such a slight. "His coolness and reserve towards Mr. Pitt increased, although there was no difference of opinion between them on any political question."

For a season the Chancellor concealed his resentment, and he even had such control over his feelings as to support Lord Grenville on the new leader's first appearance in that character in the House. A discussion arose respecting a very doubtful measure of Mr. Pitt, which he was soon obliged to abandon—the armament against Russia, on the taking of Ockzakow and Ismael. Lord Grenville moved the address of thanks, in answer to a message from the Crown announcing that, in consequence of his Majesty not having succeeded in bringing about a satisfactory adjustment of the differences between the Sublime Porte and the Empress Catherine, he deemed it necessary to increase his forces by sea and land. Earl Fitzwilliam having moved an amendment censuring the conduct of the Government, Lord Loughborough made a speech, memorable as containing one of the earliest expressions of opinion in parliament on the French Revolution, which he still regarded with hope and with favour. Having inveighed bitterly against the general policy of Ministers; who seemed disposed wantonly to interfere with the concerns of foreign states all over the world, and particularly condemned the threatened rupture with Russia, he highly eulogised the magnanimous declaration of the National Assembly of France, that "they would for ever avoid wars on speculative and theoretical points,"—which ought to have suggested to us a wiser and more elevated system than that which we were pursuing. He said, "The revolution in France presents to us the means of reducing our establishments, of easing the people, and of securing to the nation, for a length of years, the blessings of peace. But, instead of this, we ransack the most obscure corners of the earth for enemies, and wish to rush into hostilities against a great empire, which is our natural ally, and the present enlightened sovereign of which feels for this country sentiments of unmixed respect and good will."

The Lord Chancellor, stimulated probably by personal rivalry and dislike, left the woolsack, and answered this speech in a very contemptuous tone. He abstained from any general defence of Ministers, but he insisted that the objections to the proposed address were wholly frivolous, as the

Crown was entitled to confidence on such an emergency, and no noble Lord, by agreeing to the address, was pledged to the wisdom of any measure which the responsible advisers of the Crown might consequently recommend. In putting a construction on their treaties with Russia and Prussia, he affected a modesty which I do not understand, saying that "on subjects of state he begged to be understood as speaking with deference to statesmen." However, somewhat to countenance the notion that he considered himself a mere lawyer, and no statesman, he argued that their Lordships should not look merely to the letter of their contract with foreign nations, but should put *an equitable interpretation upon it*; giving as an illustration, that, although we only engaged to defend Prussia when attacked,—if we saw Russia surrounding Poland in a manner dangerous to the interests of Prussia, we were bound to interfere for the benefit of our ally. Lord Loughborough's compliments to the French Revolution he treated with the utmost scorn, asserting "that the National Assembly had never assumed a bold or manly aspect, and that its proceedings were, in his mind, a tissue of political fopperies, as distant from true wisdom as from morality and honour."

There being now a new parliament, the important constitutional question arose, whether Hastings's impeachment was abated by the dissolution of the House of Commons which had commenced it? All impartial lawyers were of opinion that it was now to be considered as pending *in statu quo*; and, after a committee appointed to search for precedents had made their report to this effect, Lord Porchester moved, "That a message be sent to the Commons, to acquaint them that this House will proceed upon the trial of Warren Hastings, Esquire."

This was strongly opposed by the Lord Chancellor, who contended that the prosecution was at an end with the prosecutors; that Mr. Hastings's recognisance had expired, so that, he being neither in prison nor under bail, he was not subject to their jurisdiction; and that all precedents were in his favour, as well as all reasoning. As to the report of the committee, he had read it with attention, and it seemed to him to be little short of demonstration, that, by the usage and law of that House, an impeachment was universally understood to abate at a dissolution.—Lord Loughborough, however, clearly proved that the impeachment, being "in the name of all the Commons of England," was still to be carried on in their

name by their present representatives; that the House of Lords is a permanent judicial tribunal, deciding in one parliament appeals and writs of error brought before it in a preceding parliament; that the assumption of the defendant's recognisance being at an end was a mere begging of the question; that the precedents, when rightly understood, were inconsistent with the notion of abatement; and that to sanction the doctrine contended for, would be to put it in the power of the executive government at any time, by a dissolution of parliament, to screen a delinquent minister from deserved punishment.—Lord Grenville, and most of the Government Peers, divided against the Chancellor, and he was beaten by a majority of 66 to 18.\*

But he succeeded this session in defeating Mr. Fox's Libel Bill, under pretence that there was not time to consider the subject, although, to the high credit of Mr. Pitt, who had supported the bill in the Commons, Lord Grenville anxiously declared that "he should be extremely sorry if it were to go forth to the world that the Administration were against it, or unfriendly to the rights of juries."<sup>b</sup>

Thurlow's official career was now drawing to a close. On the 31st of January, 1792, he, for the last time, delivered into the hands of the King the speech to be read on the opening of parliament. It is exceedingly difficult to understand the wayward conduct during this session which led to his dismissal. I have in vain tried to obtain a satisfactory explanation of it by studying contemporary memoirs, and consulting some venerable politicians whose memory goes back to that æra. He had formed no connection with the Whigs;—he was more than ever estranged from their society, and opposed to their principles,—and he could not have had the remotest intention of going over to them. I can only conjecture that, as Mr. Pitt's reputation had been a little tarnished by the failure of the Russian armament, and he had not yet been strengthened by the accession of the Duke of Portland, Burke, and the alarmist Whigs, which soon followed,—Thurlow, still reckoning in a most overweening manner on his personal favour with the King, sincerely thought that he could displace the present Premier, whom he regarded as little better than a Whig, and that he could establish a real Tory government, either under himself, or some other leader, who would oppose the Libel Bill, and all such

\* 29 Parl. Hist. 514—545.

<sup>b</sup> *Ib.* 726—741.

dangerous innovations, and rule the country on true old Church-and-King maxims.

The Chancellor of the Exchequer having announced a plan for bringing tobacco under the excise laws, and for facilitating summary proceedings against those who defrauded the revenue, endeavours were made to exasperate the public mind against him; and these the Lord Chancellor thought fit to abet in charging the jury in a proceeding relative to the coinage, called "*a trial of the Pix.*" "So sacred is the trial by jury," said he, "that I trust the people of England will consider it their indefeasible right; and that under no pretence, either of revenue or of any other object, will this great safeguard of their property and their liberties be entrenched upon: for an infringement of this right, the longest life of the most exalted minister could never atone." Hand-bills were next day posted all over London, giving this extract from his speech, headed "BRITONS! ATTEND TO THE VOICE OF YOUR CHANCELLOR."<sup>c</sup>

The occasion he selected for commencing hostilities in parliament was the introduction into the House of Lords of Mr. Pitt's celebrated bill "to establish a Sinking Fund for the Redemption of the National Debt." This measure, which has proved a failure, and which almost all financiers now condemn, was considered by its reputed author, his friends, and the bulk of the nation, as the greatest effort of his genius, and a lasting monument of his fame.<sup>d</sup> He staked upon it the stability of his administration. It passed the Commons with applause. But in the Lords, "to the astonishment of every one, it was violently reprobated by the Lord Chancellor."<sup>e</sup> His colleagues must have been even more startled than the rest of mankind; for he had not offered the slightest objection when the measure was considered in the Cabinet, and, when he left the woolsack to throw it out, he had not hinted to any of them an intention to say a word against it. In truth he had not discovered its fallacy, and he made no attempt to show that, by the creation of additional stock and additional taxation to supply the sinking fund, the aggregate amount of the national debt would be increased with diminished means of bearing the burden of it. He almost entirely confined himself to a rather futile objection, that an unconstitutional attempt was made to bind future parliaments. No one believed that

<sup>c</sup> Adolphus, v. 234.

was the worst of three which he suggested

<sup>d</sup> The scheme was in fact Dr. Price's, and

<sup>e</sup> Tomline's Life of Pitt, ii. 513.

future parliaments could be bound to provide for the sinking fund, if they should think that the money to be raised had better be left to "*fructify* in the pockets of the people;" but the inability to insure a perpetual adherence to the plan could be no solid argument against attempting it; for, if sound and beneficial, there was every reason to expect that it would become more and more popular. But Thurlow believed that he had gained a complete triumph by thundering out most impressively and awfully, "that the bill exhibited a degree of presumption and arrogance, in dictating to future parliaments, which he trusted the House would never countenance. None but a novice, a sycophant, a mere reptile of a minister, would allow this act to prevent him from doing what, in his own judgment, circumstances would require at the time; and a change in the situation of the country may render that which is proper at one time inapplicable at another." He thus concluded,—“In short, the scheme is nugatory and impracticable—the inaptness of the project is equal to the vanity of the attempt.” Such observations were probably better adapted to his audience than others more profound, and he had nearly succeeded in defeating the bill—which must have been followed by the retirement of Mr. Pitt. On the division, it was carried only by a majority of six.<sup>1</sup>

Next morning Mr. Pitt wrote a letter to the King, the tenour of which we may pretty well guess at from the following letter, which he at the same time sent to the Lord Chancellor:—

“Downing Street, Wednesday, May 16, 1792.

“My Lord,

“I think it right to take the earliest opportunity of acquainting your Lordship, that being convinced of the impossibility of his Majesty's service being any longer carried on to advantage while your Lordship and myself both remain in our present situations, I have felt it my duty to submit that opinion to his Majesty; humbly requesting his Majesty's determination thereupon.

“I have the honour to be, &c.

“W. PITT.”

The coming storm had been foreseen by several, and the result had been distinctly foretold by that sagacious statesman, Lord North, who a short time before had said to a

<sup>1</sup> This very important debate is not even noticed in the Parliamentary History, and the only account we have of it is in a very wretched book, Tomline's "Life of Pitt." See vol. ii. 513; Gifford's Life of Pitt, iii. 187



person peculiarly intimate with Lord Thurlow, "Your friend thinks that his personal influence with the King authorises him to treat Mr. Pitt with *humeur*. Take my word for it, whenever Mr. Pitt says to the King, 'Sir, the Great Seal must be in other hands,' the King will take the Great Seal from Lord Thurlow, and never think any more about him."

And so it turned out. The King at once yielded to Mr. Pitt's wishes, and caused an intimation to be conveyed to Lord Thurlow that "his Majesty had no longer any occasion for his services."

We are not informed of the channel through which the dismissal was announced to the Chancellor, but the act was a dreadful surprise to him, and the manner of it deeply wounded his pride. "I have no doubt," writes the same person to whom Lord North had uttered his prophecy, "that this conduct of the King was wholly unexpected by Lord Thurlow: it mortified him most severely. I recollect his saying to me, 'No man has a right to treat another in the way in which the King has treated me: we cannot meet again in the same room.'"<sup>6</sup>

However, as Mr. Pitt was not then provided with any successor, as great inconvenience would have arisen from putting the Great Seal into commission during the sitting of parliament, and as it was desirable that the present holder of it should continue in office a short time to give judgment in causes which had been argued before him, an arrangement was made that he should not surrender it till the day of the prorogation.

Meanwhile, he tried to set the King against Mr. Pitt and the Government from which he was retiring, by his violent and somewhat artful opposition to a bill which they had introduced "for encouraging the growth of timber in the New Forest." This provided for the inclosure of some crown land to be planted with trees for the use of the navy, and suspended or mitigated the forestal rights of the Crown over a large district in Hampshire,—these rights being of no prac-

<sup>6</sup> Nich. Recoll. 347. The author adds,—  
"It is well known that, for some years before Lord Thurlow was a second time deprived of the Great Seal, he and Mr. Pitt had not lived on pleasant terms. I never could discover the cause of this. I recollect Lord Thurlow's having once said to me—'When Mr. Pitt first became Prime Minister, it was a very

unpleasant thing to do business with him; but it afterwards became as pleasant to do business with him as with Lord North. Lord Thurlow strongly disapproved of Mr. Pitt's conduct on the impeachment of Mr. Hastings: how far that contributed to excite ill-humour in him I cannot say"

tical value to the sovereign, and very injurious to the subject. The bill passed the Lower House with the praise of all parties. But when it stood for a second reading in the Lords, "the Lord Chancellor objected to what he called the *supposed* principle of the bill, for he would not admit that it was founded on any *real* principle, as tending, under false pretences, to deprive the Crown of that landed property to which it was entitled by the constitutional law of the country. He maintained that it was of consequence that the King should have an interest in the land of the kingdom. He allowed the imperfection of the forest laws, but he insisted that the defects of this bill were infinitely more pernicious. In conclusion, he attacked the framers of the bill, his colleagues in office, in the most pointed and most unjustifiable manner. He openly charged them *with having imposed upon their Sovereign*, and did not scruple to assert that if the members of that House, who were the hereditary councillors of the Crown, did not interfere in opposition to those who had advised this measure, *all was over.*"<sup>b</sup> Nevertheless the bill passed, and the resistance to it being explained to his Majesty to be merely an ebullition of spleen from him who had so long piqued himself on the appellation of "the King's friend," no alarm was excited in the royal bosom, and the resolution to dismiss him remained unaltered.

Seeing his fate inevitable, instead of quietly submitting to it he complained loudly of the ingratitude and faithlessness of princes. But, even without regarding the double part which Thurlow had acted respecting the regency, all must agree that George III. could not properly have hesitated in taking part with Mr. Pitt in this controversy. The wanton desertion of those who had claims upon him by their services could not justly be imputed to this monarch during any part of his reign.

Before the conclusion of the session important debates took place on two measures, which the Government very cordially and creditably supported, and both of these were opposed by the Chancellor. Resolutions came up from the Commons for the abolition of the slave trade, and Lord Grenville having contended "that, for the sake of preserving the national character from disgrace, it ought to be abolished, not only as a traffic founded on inhumanity and injustice, but a traffic unnecessary and impolitic," Lord Thurlow said, "As to the iniquity and atrocity which had been so largely imputed to the slave

<sup>b</sup> Gifford's *Life of Mr. Pitt*, iii. 187; Moore's *Life of Sheridan*, ii. 273.

trade, he could not understand why its criminality had not been discovered by our ancestors, and should become so conspicuous in the year 1792." Then, forgetting his former contempt for colonial legislation, which he had testified during the contest with America, he suggested that the importation of slaves from Africa into the West India islands was a subject of internal commercial regulation, which the planters themselves best understood, and which should be left to their decision. This being considered an open question,—on the division which took place, he carried a majority of 63 to 36 against the Government.<sup>i</sup>

But, luckily, he failed in his dying effort as Chancellor again to defeat the bill to ascertain the rights of juries on trials for libel, and to protect the liberty of the press. He first contrived to get it postponed till near the end of the session; in every stage he inveighed violently against it; he obtained a declaration of opinion from the Judges, that "libel, or no libel?" was a pure question of law for the Court; and, thoroughly beaten by Lord Camden, he proposed a clause which would have rendered the bill nugatory, and to which he pretended that the venerable patriot could not object,—when he received a memorable answer, which seems actually to have made him ashamed, as he offered no farther opposition to the bill. However, when it had passed, he embodied his objections to it in a strong protest, which remains as a monument of his illiberality and his obstinacy.<sup>k</sup>

Three days after this protest was signed, he ceased to be Chancellor. The 15th of June, 1792, must have been a sad day for the haughty spirit of Thurlow.

Now came the prorogation, the event to which his dismissal was respited. The King being placed on the throne, and the Commons attending at the bar of the House of Lords, the Speaker, in his address, before presenting the Supply Bill for the royal assent, eulogised in warm terms the measures of the session—particularly that for establishing a sinking fund to pay off the national debt, and that for ascertaining the rights of juries and protecting the liberty of the press. Nay, in the very speech which the King himself delivered from the throne, and which Thurlow, on bended knees, put into the King's hand, his Majesty was made to say, "I have observed, with the utmost satisfaction, that you have made provision for the reduction of the present national debt, and established a

<sup>i</sup> 29 Parl. Hist 1341—1355.

<sup>k</sup> Ante, p. 47.

permanent system for preventing the dangerous accumulation of debt in future,"—although it was the scheme which the "keeper of the royal conscience" had so violently opposed, and for opposing which he had received notice to quit his office. The last time he ever spoke in public as Chancellor was in proroguing the parliament, by his Majesty's command, till the 30th day of August then next.<sup>m</sup>

As soon as this ceremony had been performed, he drove to St. James's Palace, where a council was held, and he surrendered the Great Seal to his Majesty,—having the mortification to see Sir James Eyre, Chief Baron of the Exchequer, Sir William Ashurst, a Judge of the King's Bench, and Sir John Wilson, a Judge of the Common Pleas, in attendance to receive it as Lords Commissioners. Resignation of office into the hands of the Sovereign by a Ministry retiring in a body, though not a joyous scene, is attended with some consolations. They probably feel, in common, that they have fought a good fight; they know that the same fate has overtaken all; and their misfortune is not only softened by mutual sympathy, but by the prospect of going together into opposition, and of returning together into place. Poor Thurlow was now a solitary outcast; he had brought his disgrace upon himself by his own waywardness and intemperance; he had no question to agitate before the public; he had no political party to associate with; he had lost the pleasures of office, without the excitement of opposition; and hope even was gone, for there was no conceivable turn of parties that could ever again bring power within his reach. When he drove home from St. James's to Great Ormond Street without the Great Seal, which had been his beloved companion so many years, he must have been a good deal dejected.—The only boon bestowed upon him was a remainder of his peerage to the sons of his two brothers,<sup>n</sup>—and no ray of kingly favour ever after shone upon him for the rest of his days.

He soon comported himself, however, with apparent firmness, and he showed a friendly and generous disposition by the advice he now gave to Sir John Scott, the Attorney-General, who, having been advanced by him, wished to share his fall. "Stick by Pitt," said the retiring Chancellor; "he has tripped up my heels, and I would have tripped up his if

<sup>m</sup> 29 Parl. Hist. 1555.

<sup>n</sup> On the 12th of June, 1792, he was created Baron Thurlow of Thurlow, in the county of

Suffolk, with remainder, on failure of his own heirs male, to the heirs male of his brother the Bishop, and John Thurlow, Esq.

I could. I confess I never thought the King would have parted with me so easily. My course is run, and for the future I shall remain neutral. But you must on no account resign: I will not listen for a moment to such an idea. We should be looked on as a couple of fools! Your promotion is certain, and it shall not be baulked by any such whimsical proceeding." It is creditable to both, that, in the party vicissitudes which followed, their intimacy and cordiality remained unabated.

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## CHAPTER CLXI.

### CONCLUSION OF THE LIFE OF LORD THURLOW.

OUR ex-Chancellor was at this time only sixty years of age, with an unbroken constitution. Considering his <sup>A.D. 1792—</sup>abilities and reputation, he might, as an independent <sup>1793.</sup> member of the legislature, have had great weight, and he might have continued to fill a considerable space in the public eye—being of some service to his country, and laying the foundation of some additional claim to the respect of posterity. But with his office he seemed to have lost all his energy. When he again entered the House of Lords, he was like a dethroned sovereign, and he could not bear his diminished consequence. Seen without his robes, without his great wig, sitting obscurely on a back bench instead of frowning over the assembly from the woolsack,—the Peers were astonished to discover that he was an ordinary mortal, and were inclined to revenge themselves for his former arrogance by treating him with neglect. Finding his altered position so painful, he rarely took any part in the business of the House, and he might almost be considered as having retired from public life. He had a very favourable opportunity of improving our institutions, and correcting the abuses in the law which he had observed in his long experience; but he would as soon have thought of bringing in bills to alter the planetary system, or to soften the severity of the climate,—for he either believed what was established was perfect, or that the evils experienced in the administration of justice were necessary and ought to be borne without murmuring.

Almost the only subject which excited him was the attempt to abolish the slave trade,—“a dangerous sentimentality,” which he continued to resist and to reprobate.

He now spent the greatest part of his time at a villa he had purchased near Dulwich. The taste which, in early life, he had contracted for classical literature, proved during some months a resource to him. But reading without any definite object he found tiresome, and he is said to have suffered much from the *tedium vitæ*. His principal relief was in getting young lawyers to come to him in the evening to tell him what had been going on in the Court of Chancery in the morning; and he was in the habit of censuring very freely the decisions of his successors.\*

For a few years he pretty regularly attended the hearing of appeals and writs of error in the House of Lords, but refused to come any longer.<sup>p</sup> Having no pension or retired allowance, he did not consider that the public had any claim upon his time;<sup>q</sup> he could not well endure to appear as a subordinate where he had so long dictated; and as there was no reasonable prospect of his return to office, he was indifferent about keeping up his law by acting as a Judge. In January, 1793, his mortification was increased by seeing the Great Seal in the possession of his rival Wedderburn, on the secession of a large section of the Whig party from Mr. Fox—an event to which Thurlow's own retirement had materially contributed.

An attempt was made to bring him back to the Cabinet as President of the Council,—which is referred to in the following letter from the Earl of Carlisle to the new Chancellor:—

“My d<sup>r</sup> L,

“I forgot to mention to you that on Thursday I found the P. extremely hot upon a project that I think right to advertise you of, though

\* Mr. Leach, afterwards Sir John, and Master of the Rolls, was his chief reporter. It is curious that Mr. James Allan Park, afterwards a Judge, acted in the same capacity to Lord Mansfield when retired from the Court of King's Bench.

<sup>p</sup> I have been favoured with the perusal of a large collection of letters which he wrote when ex-Chancellor to Sir Hay Campbell, the Lord President of the Court of Session, respecting Scotch cases before the House, show-

ing a very creditable anxiety to obtain information and to arrive at a just decision, but they are of too technical a nature to be generally interesting.

<sup>q</sup> Although there was then no parliamentary retired allowance for ex-Chancellors, they were better off than at present. Thurlow was a Teller of the Exchequer, and had given sinecures to all his relations for one of which his nephew now receives a commutation of 2000*l.* a year.

perhaps by this time it may be no longer in his thoughts. He was prodigiously bent upon making L<sup>d</sup>. Thurlow President, and seemed very desirous to know your ideas upon this subject. He is immediately to go to the K. upon it; in short, he has settled the business with his usual ease and quickness. You will be able to judge whether this springs from himself, or whether it rises from another source: you know he has been living lately with your predecessor. If *he* (L<sup>d</sup>. T.) can digest what indeed he brought upon himself, he is a match for an ostrich: but that is his affair. To talk of business of almost equal importance, I think your cook did very well yesterday.

"Ever yours, my d<sup>r</sup> L<sup>d</sup>, most aff<sup>y</sup>,

"C."

But the Prince had thought no more of this scheme, or it had been disliked by the parties interested; for Thurlow never tasted office more, although he had very little relish for a private station. When he showed himself in the House, he was observed to look sulky and discontented. He was even at a loss where to seat himself, for he hated equally the Government and the Opposition. He took no part in the important debates which arose on the French Revolution, or on the origin of the war with the French Republic. In the session of 1793 he contented himself with opposing a bill to increase the sum for which a debtor might be arrested from 10*l*. to 20*l*.,<sup>\*</sup> and expressing an opinion that there is no appeal in criminal cases from the Courts in Scotland to the House of Lords.<sup>†</sup> In the beginning of the following year he resisted the attempt that was made to obtain Jan. 1794. a reversal of the atrocious sentence of transportation passed by the Court of Justiciary, at Edinburgh, on Muir, for advocating parliamentary reform.<sup>‡</sup>

Out of office he continued a warm partisan of Mr. Hastings, although he could hardly have expected that the aged and vituperated ex-Governor General could now be set up as a rival to Mr. Pitt.

<sup>†</sup> Rosslyn MSS.; indorsed, in handwriting of Lord Loughborough, "E. of Carlisle, 1793."

<sup>\*</sup> 30 Parl. Hist. 650.

<sup>‡</sup> *Ib.* 928.

<sup>‡</sup> 20 Parl. Hist. 1302, 1304. The trials which took place in Scotland about that time cannot now be read without amazement and horror,—mixed with praises to Heaven that we live in better times. In the year 1834, being a candidate to represent the city of Edinburgh in parliament, I was reproached

for not being sufficiently liberal in my opinions. I said truly, that, although Attorney-General to the Crown, I had uttered sentiments for which, forty years before, I should have been sent to Botany Bay. "The Martyrs' Monument," on the Calton Hill, erected to the memory of Muir and his companions, is a striking proof of the servitude of a former generation, and of the freedom of the present.

Thurlow's zeal in defeating the impeachment was heightened by his antipathy to Burke, with whom he continued from time to time to have "passages of arms." A committee of the House of Commons, appointed to inquire into the causes of the length of the trial, having presented an elaborate Report drawn by the chief manager, which reflected with severity upon the manner in which the Lords had conducted the proceedings, and particularly their practice of deciding all questions upon the admissibility of evidence according to the rules of the common law as declared by the Judges,\* the ex-Chancellor loudly complained of it as a libel on the House of Lords, denominating it "a scurrilous pamphlet, published by one Debrett in Piccadilly,"—which had that day been put into his hands, reflecting highly upon the Judges and many members of that House. He said "it was indecent and disgraceful, and such as ought not to pass unpunished, as it vilified and misrepresented the conduct of judges and magistrates intrusted with the administration of criminal justice,—an offence of a very heinous nature,—tending with the ignorant and the wicked to lessen the respect due to the law itself."

We have a fuller account of Burke's retaliation next day in the House of Commons. After stating the attack made on "the pamphlet published by one Debrett in Piccadilly," he said,—“I think it impossible, combining all the circumstances, not to suppose that this speech does reflect upon a Report which, by order of the committee on which I served, I had the honour to present to this House. For any thing improper in that Report, I and the other members of the committee are responsible to this House, and to this House only. I am of opinion, with the eminent person by whom that Report is censured, that it is necessary at this time very particularly to preserve the authority of the Judges. But the Report does not accuse the Judges of ignorance or corruption. Whatever it says, it does not say calumniously. This kind of

A.D. 1795.

language belongs to those whose eloquence entitles them to a free use of epithets. It is necessary to preserve the respect due to the House of Lords; it is full as necessary to preserve the respect due to the House of Commons, upon which (whatever may be thought of us by some persons) the weight and force of all authorities within this kingdom essentially depend. The Report states grave cause of complaint, to the prejudice of those whom we represent

\* 31 Parl. Hist. 238.



Our positions we support by reason and precedent, and no sentiment which we have expressed am I disposed to retract or to soften. Whenever an occasion shall be regularly given for discussing the merits of the Report, I shall be ready in its defence to meet the proudest name for ability, learning, or reputation which this kingdom can send forth.”<sup>7</sup>

Thurlow remained quiet till the trial was at last to close; and the arraignment having taken place before one generation, the judgment was to be pronounced by another. One hundred and sixty Peers had walked in the procession the first day, and only twenty-nine voted on the question of *guilty or not guilty*. “The Great Seal was borne before Loughborough, who, when the trial commenced, was a fierce opponent of Mr. Pitt’s government; while Thurlow, who presided in the court when it first sat, estranged from his old allies, sat scowling among the junior Barons.”<sup>8</sup>

But when the debates upon the merits began among the Lords themselves, in their own chamber, the ex-Chancellor’s pugnacity returned in full vigour, and he valiantly assailed his successor, who, formerly and still closely connected by party ties with Mr. Burke, contended that all the charges except three were fully established. Thurlow treated all these arguments with contempt, and insisted that even the charges on which six Peers said “*Guilty*,” were either entirely frivolous, or unsupported by a shred of evidence. He had, on this occasion, not only the majority of the House, but the voice of the public on his side, there having been for some time a strong reaction against the accusation; and he must have enjoyed a great triumph in being present while Lord Loughborough was compelled to announce the acquittal, and to behold the triumphant Hastings, still standing at the bar, overwhelmed with congratulations.<sup>9</sup>

The vulgar, who do not penetrate the workings of the human heart, were astonished now to discover that Thurlow, who had been a furious ultra-Tory, was beginning to incline to the liberal side in politics. He was taken into favour by the Prince of Wales; he formed an intimacy with Lord Moira, a leader of the Carlton House party, and he was even disposed to cultivate the acquaintance of Mr. Fox. “*Idem sentire de republicâ*” was the cement of Roman friendships; and in Eng-

<sup>7</sup> 31 Parl. Hist. 605—609.

<sup>8</sup> Macaulay’s *Essays*, iii. 456.

<sup>9</sup> Trial of Warren Hastings, published by

Debrett, 1797; Mill’s *History of India*, vol. v c. 2.

land there is nothing so effectual to reconcile old political, and even personal, enmities as a common hatred of the Minister for the time being. Low as the Whigs now were in point of numbers, from the dread of Jacobinism,<sup>b</sup>—Thurlow showed strong symptoms of a wish to coalesce with them. He assisted Lord Lauderdale in opposing the suspension of the *Habeas Corpus* Act, although, during the American war, he scorned all who had any scruple about such unconstitutional measures, —and he divided against the Government in a minority of 11 to 119.<sup>c</sup>

To strengthen his connection with Carlton House,—when the bill was passing to grant the Prince an annuity on his inauspicious marriage, Thurlow expressed deep regret that a larger allowance was not proposed for his Royal Highness. He anticipated much good conduct both from the Prince and the Princess, and he prophesied “that, when the new order of things was observed, the generosity of the nation would be roused by the change, and they would readily come forward and relieve the Prince from the necessity of longer continuing in retirement and obscurity.” The Duke of Clarence highly complimented the noble and learned Lord on the regard and attachment he had manifested for the Prince and the Royal Family.<sup>d</sup>

Thurlow now became a “flaming patriot.” We have arrived at a period of English history which, by exaggeration, has been called “the Reign of Terror,” and upon which I shall often have to animadvert in writing the lives of Loughborough, Erskine, and Eldon. Under the apprehension of revolutionary principles,—without any intention of permanently encroaching upon the constitution, but with the hope of adding to the strength of the administration by spreading alarm over the nation,—after the failure of the ill-advised trials in which an attempt was made to take the lives of Mr. Horne Tooke and others, for following the example lately set by the Prime Minister in struggling for parliamentary reform,—bills were brought in of a very stringent character, to restrain the holding of public meetings, to extend the law of high treason, and to subject persons found guilty of seditious libels to transportation beyond the seas.

<sup>b</sup> I heard old George Byng say, at the dinner given to him to celebrate the 50th anniversary of his having sat for Middlesex, alluding to those times,—“It has been asserted that the Whigs would all have been held in

one hackney coach. This is a calumny; we should have filled *two*!”

<sup>c</sup> 31 Parl. Hist. 586.

<sup>d</sup> 32 Parl. Hist. 124—139.

These having been strenuously resisted by Fox, Grey, and Erskine in the House of Commons—when they reached the House of Lords they found a bold opponent in ex-Chancellor Thurlow. He asked, "Was it fitting that a man should be subject to such penalties for saying it was an abuse that twenty acres of land below Old Sarum Hill, without any inhabitants, should send two representatives to parliament? All were to be punished who attempted to create a dislike to the established constitution; and of the established constitution this renowned rotten borough is a part. He was decidedly of opinion that the old constitutional laws of the country were quite sufficient to put down offences against the state. New statutes and severe penalties he thought little calculated to attain the object proposed. A jury would be inclined to acquit a mischievous libeller rather than expose him to be transported seven years to Botany Bay. Cruel laws never conduced to the safety of a prince or the preservation of an established government." On another occasion he said, "He would have the existing law improved against libellous and seditious meetings,—which he had no doubt might thus be put an end to. The speeches quoted were insolent and impertinent, but were they so dangerous as to call for the proposed enactments? It was the glory of the English constitution that it imposed no previous restraint on the people in the exercise of the important privilege of meeting to discuss grievances and petition parliament for their redress. That privilege stood precisely on the same ground with the freedom of the press. Its use was free and unrestrained, but its abuse was open to punishment. Montesquieu, in his 'Spirit of Laws,' said that 'the existence of political freedom in England depends on the unrestrained right of printing.' If the people feel the pressure of grievances, and may not complain of them, we are slaves indeed. To declare, therefore, that 'the people have nothing to do with the laws but to obey them,' was as fallacious as it was odious." There was no ground for saying, that if people met to discuss public questions they meant to overcome the legislature; they might wish to awaken in the people a due attention to a subject involving their dearest and most invaluable rights. During

\* 32 Parl. Hist. 255.

† Sentiment of the Bishop of Rochester, which we are told Thurlow violently reprobated when it was uttered, although this does

not appear from the Parliamentary History. The Bishop was now allowed to explain the expression so as to render it unexceptionable.

the fervour of the Middlesex election, some had gone so far as to declare that no resolution or act of the House of Commons was of any validity while Mr. Wilkes was excluded. Subsequently other doctrines had been broached equally extravagant and alarming, but he had never heard that bills such as the present were necessary to restrain them. This bill about public meetings was likewise liable to the gravest objection from the wording of its clauses, and either betrayed great negligence in those who framed it, or afforded suspicion of its originating in an awkward motive. The bill gave magistrates the power of taking all persons into custody 'who should hold any discourse for the purpose of inciting or stirring up the people to hatred and contempt of the person of his Majesty, or the government and constitution of this realm as by law established.' If these words were allowed to stand in the bill, there was at once an end of all discussion with a view to parliamentary reform. The inequality between Yorkshire and Old Sarum—each returning its two members—could not be mentioned without derision and ridicule,—which an ignorant magistrate would construe into an incitement of the people to hatred and contempt of our representative system, and consequently of 'the government and constitution as by law established.' The worthy magistrate would dissolve the meeting, and take all present into custody. A prosecution might be brought for excess of authority, but the prosecutor would come into court with a rope about his neck. To such an extent did the bill go as to enact by one clause that 'if an assembly met for public discussion, should continue together peaceably to the number of twelve one hour after proclamation to depart, all present were guilty of felony,' and the magistrate was ordered to put them to death, or at least was saved harmless if they lost their lives in resisting him. The bill was founded on what was called the growth of French principles in this kingdom. To produce such outrages as had disgraced France, nothing could more directly tend than violent measures like the present. He could not give his assent to a bill wantonly circumscribing that liberty which England had so long enjoyed, and under the auspicious influence of which she had so long flourished." Upon a division, the minority mustered 18 against 107.<sup>s</sup>

<sup>s</sup> 32 Parl. Hist. 505—555. The Earl of Malmesbury gives the following account of this debate in a letter to the Duke of York: "The debate in the House of Lords began at five, and did not end till a quarter past three. The speakers against the bill (and usually in

Having failed in these endeavours, the ex-Chancellor followed the example of the Whig leaders—without forming any express coalition with them—in seceding from parliament; and during the two following sessions his name does not once occur in the parliamentary debates.

However, in the autumn of 1797 there was suddenly a prospect (which, while it lasted, gave him great delight) of his being restored to his old office of <sup>A.D. 1797.</sup> Lord Chancellor. Mr. Pitt's administration had fallen into very considerable discredit from the conquests of the French Republic on the Continent, from the disturbed state of Ireland, from the mutiny in the fleet, and from the unexampled commercial embarrassment which had led to the suspension of cash payments at the Bank. But Mr. Fox, hated by the King, was at present by no means popular with the nation. In these circumstances, a project was set on foot, under the auspices of the Prince of Wales, to form a new administration, from which Mr. Pitt and Mr. Fox should both be excluded, and of which the Earl of Moira was to be the head, with Thurlow as his Lord Chancellor, and Sir William Pulteney as his Chancellor of the Exchequer. The King, although never disheartened in the midst of difficulties, began to look at his minister with some distrust, and was not unfriendly to the change. But no confidence was placed in the sufficiency of the proposed new chief,—Mr. Sheridan absolutely refused to belong to an administration excluding Mr. Fox,—and the plan, without making more progress, proved abortive.<sup>i</sup>

The disappointed ex-Chancellor then carried on a negotiation on behalf of the Princess of Wales for a separation from the Prince; and he appears to have been very strongly impressed with a sense of her wrongs. I select two of his letters on this subject to Lord Chancellor Loughborough, which, I think, place the writer in a very amiable point of view:—

opposition) were those your Royal Highness mentioned in your last letter. Lord Thurlow was artfully and cautiously factious; Lord Moira (I am very sorry to say) loudly and violently so; and I think I never heard a speech with so much unfair and unprovoked invective against ministers. It was evident to me, from the manner of these new partisans of the opposition, and from the part they had allotted to themselves on this occasion, that they have it in their expectations

that the present ministry will not last; that Fox and his party will not be chosen to succeed them; and that *they* shall be the persons to fill their offices.”—*Correspondence of Lord Malmesbury*, iii. 256.

<sup>i</sup> A rumour being spread that Mr. Sheridan had agreed to accept office under this projected administration, Lord Moira wrote a letter, which was published in the newspapers, to contradict it. See *Moore's Life of Sheridan*, ii. 273, 302.

"My dear Lord,

"It seems to me that a correct statement of the difficulty which occurred to the Princess of Wales, namely, that *their tempers do not suit each other*, &c., will stand nearly thus—that the expression accords less with the actual state of her mind than his Royal Highness has been led to suppose. She disclaims all resentment of any thing which has passed, and entertains the most cordial disposition to conform in all possible respects to the Prince's pleasure; but she finds, to her sorrow, that she has the misfortune of being altogether unacceptable to his Royal Highness. Under these circumstances, she is not surprised at meeting with mortifications, besides the constant and corroding reflection that, however innocently, she is the source of uneasiness to him. So far, therefore, as the consideration turns upon her personal happiness, she would expect more of that in a separate establishment. But she does not forget that she has the honour of being placed in the Royal Family of Great Britain; and consequently that she is not at liberty to choose her own condition, or to do more towards it than to wait his Majesty's commands, which she is ready to receive with perfect deference and gratitude.

"For the rest, considering the Prince's circumstances, she regards the establishment offered by his Royal Highness as liberal and generous: but the article in it which she values infinitely above all pecuniary considerations, is the being allowed to exercise a mother's tenderness in the care of her infant child.

"I have the honour to be,

"My dear Lord,

"Your most faithful and obedient Servant,

"THURLOW,

"Thursday, Dec. 14, 1797." \*

"My dear Lord,

"The Princess agrees that her sentiments are expressed in my last to your Lordship correctly as she delivered them. But she repeated another topic, which she had mentioned before, and which, perhaps, I ought to have inserted,—her hope that when the Prince should notice the reserve in which she proposed to live, clear of every appearance which the wildest jealousy could misinterpret cabal, he would find himself more friendly disposed towards her.

"I read her that passage in your letter where the Princes and you *think it best for her to remain in a state of absolute inaction, and to write no more on the subject nor answer without advice*. She expressed great sensibility of their goodness and yours in favouring her with your advice, in which she acquiesces implicitly.

"Perhaps the zeal she excites for her private happiness warps one's judgment on the public part; but if I were not checked with the autho-

rity of contrary opinions, I should, after much reflection, pronounce with confidence that justice, humanity, and policy combine to demand this separation. If the thing were not absolutely dishonest in itself, which it surely is, can it be thought more honourable or reputable for the Princes and the Royal Family to detain her in that wretched state which the public regards with horror, than to place her in a state of tranquillity? That she is separated in every offensive sense of the word, divorced, is notorious in a degree to which the avowal can add nothing. Those who have opportunity and curiosity to hunt such anecdotes report, and it is generally believed, that the whole art of tormenting is exhausted upon her, with every advantage which the relations of husband and father can give it. Surely it would be desirable to remove the sensations which spring from this source; and is there serious hope of that but in a separation? Those who look up to the King's authority and the countenance of the Royal Family for her protection, will find it secured by this arrangement. There are, moreover, those who fear something worse from an irritable mind goaded by despair.

"These are my private thoughts, of which, so far as relates to myself, I should make no secret; but the delicacy of the subject imposes reserve; and particularly that which you know is my fixed sentiment, that no move can be made in the business but by royal authority.

"I have the honour to be,

"My dear Lord,

"Your most faithful and obedient Servant,

"THURLOW.

Sunday, 17 Dec. 1797."<sup>m</sup>

These humane efforts were fruitless; and the controversy continued to bring scandal on the Royal Family and the nation for a quarter of a century.

Thurlow seeing Pitt, whom he so much disliked, again in the possession of undisputed power, not only abstained from taking part in the debates of the House of Lords, but ceased to feel any interest whatever in politics, and declared that he had finally abandoned parliamentary strife. He never went to the King's court, but he kept up an intercourse of civility with Carlton House. On rare occasions he showed himself among the Peers, and expressed an opinion on subjects not connected with faction. In the year 1798, he delivered a very sensible and dispassionate speech against a bill for increasing the assessed taxes,—not in his old style, declaring "its principle to be iniquitous, and its clauses nonsensical and contradictory," but calmly examining the different ways and proportions in which individuals

<sup>m</sup> Rosslyn MSS.

should be made to contribute to the necessities of the State—so as to lead to the conclusion that he had been devoting a portion of his leisure to the study of finance and political economy."

The following year he interposed with good effect to support  
 July 5, the equality and dignity of the peerage—advan-  
 1799. tageously reminding those who heard him of his lofty stand against the Duke of Grafton, soon after his first entrance into the House. The Duke of Clarence (afterwards William IV.) having delivered a long speech in defence of the slave trade, Lord Grenville, rising after him, said, "between him and his Royal Highness there could be no personal debate, because between them there was no equality." Lord Romney having spoken to order, and Lord Grenville having repeated his words, Lord Thurlow rolled out these sentences with all his ancient energy, graced with a suavity which was new to him: "I wish it to be clearly understood 'whether it is the constitution of this House that we are unequal in our right to speak here?' I am one of the lowest in point of rank. I contend not for superiority of talent, or for any pretension whatever above any of your Lordships. But, my Lords, I claim to be exactly equal not only to the illustrious personage who has just spoken, but to the Prince of Wales himself, if he were present in this House as a Peer of parliament. I know of no difference between Peers of parliament, considered in their parliamentary character, and I maintain that the lowest, in point of precedence, while we are debating here, is equal to the highest. If rank or talent created an inequality in our right to speak in this House, the illustrious Prince who has lately addressed you would have a far higher right to be heard than I pretend to; but, in speaking my sentiments to your Lordships, I claim for my humble self a perfect equality with every Prince of the blood, and with those of the highest intellectual position in this assembly." He afterwards closed the debate by a violent attack on the bill, unnecessarily ridiculing what a bishop had said who had tried to prove the morality of the Africans by "their women wearing petticoats,"—an article of dress which another Right Reverend Prelate asserted had been laid aside by the opera dancers. Thurlow then went on boldly to maintain "that there was no prohibition against slavery in the Christian religion; and that as we did not pretend to destroy the *status*, there was no pro-



priety in putting down the ancient commerce by which slaves were to be supplied where they were wanted. The bill was altogether miserable and contemptible. A Society had sprung up to civilise the Africans; that is to say, they would send a missionary to preach in a barn at Sierra Leone to a set of negroes who did not understand one word of his language.”—However, we ought never to despair of truth gradually and finally prevailing among any set of men, however prejudiced: the Lords were improving, and there being now an equality of votes on each side (36 to 36), the bill was only lost by the maxim of this House, “*semper presumitur pro negante*”—which sometimes makes their decisions depend upon the manner in which the question is worded.\*

Lord Thurlow did not again appear in public till the 20th of May, 1801, the occasion on which I myself saw <sup>A.D. 1801.</sup> and heard him, and of which I have imperfectly attempted to give some account at the commencement of this Memoir.†

He had then the consolation of seeing Mr. Pitt obliged to retire into a private station, and the woolsack occupied by one much less obnoxious to him than his ancient rival: Mr. Addington was Prime Minister, and Lord Eldon was Chancellor. Thurlow's spirits so far rallied, that he spoke several times with animation and efficiency. He opposed a bill to indemnify the late Administration for what they had done during the suspension of the *Habeas Corpus* Act. He said, “Instead of a bill of indemnity, it ought to be entitled a bill to suppress actions for personal injuries. He could not see on what ground of policy a man should be imprisoned for eight years without being brought to trial. It was impossible for him to withhold his compassion from persons lingering in prison for a series of years, who had again and again waited investigation of their conduct; nor could he resist the inclination to deem such men innocent until tried and convicted.”‡

His next effort was in favour of an old enemy whom, when Attorney-General, he had prosecuted and sent to gaol, and struggled to place in the pillory, but with whom he was now living on terms of personal intimacy.

\* 34 Parl. Hist. 1092—1141. As every Peer votes upon a division, and no one has a casting vote, some rule becomes necessary to govern the decision in case of an equality of voters. The one adopted is supposed to stop

any proceeding not sanctioned by a majority.

† Ante, p. 153.

‡ 35 Parl. Hist. 1539

The following extract from the Diary of a distinguished political character, some years deceased,<sup>1</sup> gives an interesting account of their first meeting after the convicted parson had been marched off to Newgate:—

“Lady Oxford, who then (1801) had a house at Ealing, had by Lord Thurlow’s desire (I believe), but at all events with his acquiescence, invited Horne Tooke to dinner to meet him: Lord Thurlow never having seen him since he had prosecuted him when Attorney-General for a libel in 1778, and when the greatest bitterness was shown on both sides—so that this dinner was a meeting of great curiosity to us who were invited to it. Sheridan and Mrs. Sheridan were there, the late Lord Camelford, Sir Francis Burdett, Charles Warren, with several others, and myself.—Tooke evidently came forward for a display, and as I had met him repeatedly, and considered his powers of conversation as surpassing those of any person I had ever seen (in point of skill and dexterity, and, if at all necessary, in *lying*), so I took for granted old grumbling Thurlow would be obliged to lower his top-sail to him—but it seemed as if the very *look* and *voice* of Thurlow scared him out of his senses from the first moment—and certainly nothing could be much more formidable. So Tooke tried to recruit himself by wine, and, though not generally a drinker, was very drunk: but all would not do; he was perpetually trying to distinguish himself, and Thurlow as constantly laughing at him.”

Horne Tooke, after he had escaped the greater peril to which he had been exposed by another Attorney-General of being hanged, beheaded, and quartered as a traitor, had taken up his abode at Wimbledon, and thither Thurlow used to ride from Dulwich, that he might pass a morning with him in talking over the trial of *Rex v. Horne* before Lord Mansfield, and in discussing some of the questions started in the *Επεα πτεροεντα*.<sup>2</sup> The ex-Chancellor would likewise occasionally dine with the ex-Parson, and joyously meet the motley company there assembled,—Hardy, the shoemaker, sitting on one side of him, and Sir Francis Burdett on the other.

Horne Tooke, though unsuccessful as a candidate against Mr. Fox at Westminster, had recently been returned to parliament for Old Sarum by Lord Camelford; and a question having arisen whether, as a priest in orders, he was disqualified to sit in the House of Commons, a bill passed that House

<sup>1</sup> Mr. Creevy

<sup>2</sup> I have been informed by my late valued friend, Mr. Philip Courtenay, who, when a boy, used to be much with Horne Tooke at Wimbledon, that two or three years after

this, a new edition of the “*Diversions of Purley*” passing through the press, Thurlow asked and obtained a sight of the proof sheets—saying, “he was afraid he should not live till the book was published.”

to *declare* and enact that, in all future parliaments, no person who had been ordained a priest should be allowed to serve as a representative of the people. When this bill stood for second reading in the House of Lords, Lord Thurlow violently opposed it. He began with the doctrine he had been used to propound in Wilkes's case, respecting the Middlesex election, expressing his astonishment "that the Commons, who indubitably were the only judges of the question of '*who ought to sit in their House,*' should, on this occasion, voluntarily consent to forego the exercise of functions peculiarly their own, and send up a bill to their Lordships upon the subject of eligibility to a seat among them, calling thereby upon another branch of the legislature to regulate their rights and privileges." He then expressed a desire to know who could be the author of such a bill, and took an opportunity of showing unabated ill-will to Mr. Pitt, by an invidious eulogy on his successor:—"At the head of the government," he said, "was now placed a man of great respectability, of known integrity, of unassuming manners, *not seeking to engross all the power of the state into his own hands*,—who had discharged the arduous duties of his office much to his own credit, and to the entire satisfaction of the public; it was impossible that such a man should be so prodigal of his reputation as to propose such an absurd measure. The eligibility of a priest who had been ordained should be decided by a committee under the Grenville Act. Where was the propriety of introducing a bill to *declare* that a particular class of persons are ineligible by the common law to sit in parliament? It seemed very hard that a person once ordained, who, from conscientious motives, ceased to exercise any clerical function, should be told that he must not enter any other profession because his priestly character was indelible. But why should this indelible character disqualify a priest to sit in the one House more than in the other? The right reverend bench opposite were very short sighted if they supported this bill, for it would speedily lead to the revival of the act for their expulsion from parliament." He concluded by expressing his high value for the franchise of being eligible to represent the people in the legislature, which he considered as wantonly violated by this bill. However, he met with no support,—the present Lord Chancellor, the late Lord Chancellor (become Earl of Rosslyn), and the Bishop of Rochester, standing up for the indelibility of orders, and considering this to be a permanent disqualification to represent the people in

parliament;—so that he did not venture on a division, and he allowed the bill to pass without further opposition.<sup>1</sup>

Lord Thurlow's last recorded appearance in the House of  
 May 4, Lords was in the debate on the Peace of Amiens,  
 1802. when, still displaying his love for Addington, or rather his unappeasable enmity to Pitt,—in answer to Lord Grenville, who had complained that former treaties with France had not been renewed, he said that “all subsisting treaties being at an end by hostilities, *the abrogation of these treaties was to be imputed to the Government, which had plunged the country into the war, and that the revival of treaties depended on the will of the contracting parties.*” This defence, however, was disclaimed by Lord Chancellor Eldon, who denied the position that all former treaties not expressly renewed were to be considered abrogated, and declared that if the consequence of the omission were such as had been supposed, an address should be voted to his Majesty to dismiss his present Ministers from his councils for ever.”

Disgusted by such a repudiation of his help, or conscious of decaying powers, and seeing his influence for ever lost, he bade an eternal adieu to the assembly of which he had for many years been the most conspicuous member, and in which he found himself reduced to insignificance. He now permanently retreated into private life, spending his time at his villa, with occasional excursions to Brighthelmstone, to Bognor, to Scarborough, and to Bath.

Although no longer taking any share in parliamentary or party warfare, he continued to be consulted, till within a few months of his death, respecting the unhappy differences which prevailed in the Royal Family. On occasion of the first communication of the charges made by Lady Douglas against Caroline, Princess of Wales, the Prince directed that Lord Thurlow's opinion should be taken as to the course to be followed on a matter of such delicacy; and in the Diary of Sir Samuel Romilly we have the following interesting statement of the interviews which then took place between him and the ex-Chancellor. Having mentioned that Colonel M'Mahon

<sup>1</sup> 35 Parl. Hist. 1541.

<sup>2</sup> 38 Parl. Hist. 596. The distinction is between treaties which, from their nature, are meant to be permanent and perpetual, such as for cession, boundary, or exchange of territory; and such as from their nature

are extinguished by hostilities, such as for commercial intercourse. See Vattel, b. xi. c. xii. s. 153; Martens, s. 58; Wheaton, part iii. c. xi.; Kent's Commentaries, i. 177; *Sutton v. Sutton*, 1 Russell & Mylne, p. 663.

brought him Lady Douglas's "Narrative," he thus proceeds :—

"After I had read it, by the desire of the Prince I called on Lord Thurlow. Colonel M'Mahon accompanied me. Lord Thurlow had been Dec. 15,  
1805. very ill, which had been the cause of our interview being postponed for a week. He was still indisposed, and appeared to be extremely infirm; he was, however, in full possession of his faculties, and expressed himself, in the conversation we had together, with that coarse energy for which he has long been remarkable. He said that he had not been able to read all Lady Douglas's narrative, it was written in so bad a hand, but that he had gone rapidly over it, and collected the principal facts (and in truth it appeared, from the observations he made, that no fact of any importance had escaped him); that the first point to be considered was, whether her account were true, and that for himself he did not believe it. He said, that there was no *composition* in her narrative (that was the expression he used),—no connection in it—no dates; that some parts of it were grossly improbable. He then said, that when first he knew the Princess he should have thought her incapable of writing or saying any such things as Lady Douglas imputed to her, but that she might be altered; that, to be sure, it was a strange thing to take a beggar's child, but a few days old, and adopt it as her own; but, however, princesses had sometimes strange whims, which nobody could account for; that, in some respects, her situation was deserving of great compassion. Upon the whole, his opinion was, that the evidence the Prince was in possession of would not justify taking any step on his part, and that he had only to wait and see what facts might come to light in future. In the mean time, however, that it would be proper to employ a person to collect evidence respecting the conduct of the Princess."<sup>\*</sup>

No other meeting with Thurlow took place, and the "Delicate Investigation" proceeded—the misconduct of both the illustrious parties continuing to outrage the public long after he had left this world.

Brighthelmstone was now his favourite retreat. The Diary I have before quoted, for an account of his reconciliation with Horne Tooke, gives a lively representation of the life he led there in his declining days :—

"Another very curious person whom I saw a great deal of in the autumn of 1805, sometimes at the Pavilion, sometimes at other houses where the Prince dined, and repeatedly at his own house, was Lord Thurlow, to whom the Prince always behaved with the most marked attention and deference.

"Thurlow had declined greatly in energy from his encounter with

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<sup>\*</sup> Mem. of Sir S. Romilly, ii. 125.

Horne Tooke at Lady Oxford's. He used to read, and ride out in the morning, and his daughter (Mrs. Brown) and Mr. Sneyd the clergyman were both always occupied in procuring any strangers, or any other persons who they thought would be agreeable to the old man, to dine with him—the party being thus ten or twelve every day, or more.—I had the good fortune to be occasionally there with my wife, which was a civility we owed to some former attentions from her to one of his daughters in the county of Durham, and however rough he might be with men, he was the politest person in the world to ladies. These two or three hours of his at dinner were occupied in lying in wait for any unfortunate slip or ridiculous observation that might be made by any of his *male* visitors, and whom, when caught, he never left hold of, till I have seen the sweat run down their faces from the scrape they had got into, and the unmerciful exposure he made of them. Having seen this property of his, I took care of course to keep clear of him, and have often been extremely amused in seeing the figure those have cut who came with the evident intention of *showing off* before him. Curran, the Irish lawyer, I remember was a striking instance of this. I dined with him at Thurlow's one day, and he (Thurlow) just made as great a fool of him as he did formerly of Tooke.—He was always dressed in a full suit of clothes of the old fashion, great cuffs and massy buttons, great wig, long ruffles, &c. His black eyebrows exceeded in size any I have ever seen, and his voice, though by no means devoid of melody, was a kind of rolling murmuring thunder. He was a man of great reading, particularly classical, and was a very distinguished as well as most daring converser. I never heard of any one but Mr. Hare who had fairly beat him, and that this happened I know from persons who were present. Hare turned the laugh against him more than once at Carlton House and at Woburn.

“Sir Philip Francis, whom I knew intimately, and who certainly was a remarkably quick and clever man, was perpetually vowing vengeance against Thurlow, and always fixing his time (during this autumn of 1805) for making ‘an example of the old ruffian,’ as he called him, either at the Pavilion, or wherever he met him; but I have seen them meet afterwards, and though Thurlow was always ready for battle, Francis, who on all other occasions was as bold as a lion, would never stir. The grudge he owed to Thurlow was certainly not slightly grounded. When Francis, and General Clavering, and Monson, were sent to India in 1773, to check Hastings in his career, their conduct by one party in parliament was extolled to the skies, whilst, on the other hand, Lord Thurlow in the House of Lords said, ‘the greatest misfortune to India and to England was, that the ship which carried these three gentlemen out had not gone to the bottom of the sea in her passage.’

“Lord Thurlow was induced to dine with George Johnstone, who, being the most ridiculous toady of great men, and aspirer to what he thought genteel manners, said to him, ‘I am afraid, my Lord, the port wine is not as good as I could wish,’ upon which Thurlow growled out, ‘I have *tasted better*.’

"On one occasion one of the caterers of company for Lord Thurlow's amusement thought he had secured a great card, when he took Sir ———, an F.R.S., a solemn conceited pedant of great pretension on very moderate foundation, to call upon him. In mentioning the circumstance afterwards, Lord Thurlow merely observed, '*A gentleman did me the honour to call upon me to-day; indeed, I believe he was a knight!*'"

"He was fond of good music, and was, I believe, a critic in it. When he came into the drawing-room after dinner, he generally put his legs up on a sofa, and one of his daughters played on the piano-forte some of Handel's music; and though he might sometimes appear to be dozing, if she played carelessly, or music he did not like, he immediately roused himself, and said, 'What are you doing?'

"As a proof of the 'attention and deference' above mentioned always paid to Lord Thurlow by the Prince, I may add that one day when Thurlow was engaged to dine at the Pavilion during the race week, Sir John Ladd arrived at Brighton, and the Prince invited him to dinner. The Prince was in the room before Thurlow arrived, and mentioned to one of the party his fear that Thurlow would not like the company, and when 'the old Lion' arrived the Prince went in to the anteroom to meet him, and apologised for the party being larger than he had intended, but added, 'that Sir John Ladd was an old friend of his, and he could not avoid asking him to dinner;' to which Thurlow, in his growling voice, answered, 'I have no objection, Sir, to Sir John Ladd in his proper place, which I take to be your Royal Highness's coach-box, and not your table.'

"One day at dinner at his own house, he heard one of the company use the word 'chromatic,' as he thought affectedly. 'What does he say?' growled out Thurlow, and made his poor victim attempt to explain his meaning in a manner that probably cured him of using the word for the rest of his life. He was very particular about the dessert; and on one occasion, when I was present, a dish of peaches being brought to him which he found great fault with, he had the whole dessert, which, for *Brighthelmstone*, was a fine one, thrown out of the window!"

Again, we have the ex-Chancellor, in the autumn of the following year, when he was very near his end, presented to us in a striking manner by Mr. Jerningham, the brother of Lord Stafford:—

"We afterwards dined at ——— to meet Lord Thurlow, and his daughter Mrs. Brown. A large party were assembled there. Sept. 1806. I was never more struck with the appearance of any one than with that of Lord Thurlow. Upon entering the drawing-room, where he was seated on a sofa, we were all involuntarily moved to silence, and there was a stillness which the fall of a pin would have disturbed. He did not move when we came into the room, but slightly inclined his

head, which had before hung down on his breast. He was dressed in an old-fashioned grey suit buttoned very loosely about him, and hanging down very low; he had on a brown wig with three rows of curls hanging partly over his shoulders. He was very grave, and spoke little. His voice is rough, and his manner of speaking slow. Lord Thurlow is, I believe, only seventy-five; but from his appearance I should have thought him a hundred years old. His large black heavy eyes, which he fixes at intervals upon you, are overshadowed with perfectly white eyebrows, and his complexion is pallid and cadaverous. Upon literary subjects he ordinarily converses with much seeming pleasure, but having been this morning to the races he was fatigued and said very little. At dinner he drank a good deal, but nothing afterwards. In the course of conversation Mr. Mellish being remarked as a great favourite of the populace, Lord Thurlow said, 'They like him as a brother blackguard;' and then added, 'I am of their opinion: I dislike your pious heroes: I prefer Achilles to Hector, Turnus to Æneas.' Lord Thurlow has a surprising memory, and will not allow the want of it in any one else; but says it is want of attention, and not of memory, that occasions forgetfulness. Being asked how long it was since he had been to Norfolk, he replied, 'About fifty or sixty years ago.' He went home very early, calling loudly for his hat, which I remarked as being of black straw, with a very low crown, and the largest rim I ever saw. It is easy to see that in his observing mind the most trifling incidents remain graven. Thus upon Lady J. being asked a second time at the end of dinner whether she would have any wine, Lord Thurlow immediately exclaimed in a gruff voice, 'Lady J. drinks no wine!'

"We went to-day to dine at Lord Thurlow's, and upon being summoned from the drawing-room to dinner, we found him already seated at the head of his table in the same costume as the day before, and looking equally grave and ill. Lord Bute being mentioned, and some one observing that his life was going to be written, Lord Thurlow sharply observed, 'The life of a fly would be as interesting.'"

Thurlow's career in this world was now near its close. The year 1806 was remarkable for the death of several of the greatest men England ever produced. In January the proud spirit of William Pitt, unable longer to witness the utter discomfiture of his foreign policy, and the triumph of his country's foes, had fled to another state of existence; and his illustrious rival and successor had scarcely begun to exercise the functions of the high office which, after such struggles, he had attained, when he too was summoned away while forming plans for the glory of England and for the liberties of mankind.

A few hours before the death of Charles James Fox,—an event which, from the important part he was then performing,



excited universal interest and general sympathy,\*—Thurlow, who had formerly filled so large a space in the public eye, breathed his last—almost unobserved and unpitied. Soon after the dinners just referred to, while he still remained at Bright-helmstone, he was suddenly seized with an attack of illness, which carried him off in two days. I have not learned any particulars of his end, but I will hope that it was a good one. I trust that, conscious of the approaching change, having sincerely repented of his violence of temper, of the errors into which he had been led by worldly ambition, and of the irregularities of his private life, he had seen the worthlessness of the objects by which he had been allured; that having gained the frame of mind which his awful situation required, he received the consolations of religion; and that, in charity with mankind, he tenderly bade a long and last adieu to the relations and friends who surrounded him. He expired on the 12th of September, 1806, in the seventy-sixth year of his age.

Although the news of this event cannot be said to have produced any deep sensation in the public mind, the few survivors who had lived with Thurlow on terms of intimacy spoke and thought of him with respect and tenderness. I have pleasure in recording, to the honour of the Prince of Wales, that he immediately sent for a nephew of the deceased, then a very young man,—kindly made him an offer of assistance in any profession he might choose—spoke of his uncle as one whom he sincerely loved,—a faithful friend and upright councillor;—and, lamenting his loss, was so much moved that he could not refrain from tears.

The ex-Chancellor's remains were sent privately to his house in Great George Street, Westminster, and were conveyed thence, with great funeral pomp, to the Temple Church; Lord Chancellor Eldon, the Chiefs of the three superior Courts, and other legal dignitaries and distinguished men, attending as mourners,—followed by almost the whole profession of the law.

Being still only a student at Lincoln's Inn, I did not witness the solemnity; but I well remember the account, given by those who were present, of its grandeur and impressiveness. The coffin, with the name, age, and dignities of the deceased inscribed upon it, and ornamented with heraldic devices, was

\* Even Walter Scott, a bitter political opponent, after a beautiful tribute to the services of Pitt, exclaimed—

“Nor yet suppress the generous sigh  
Because his rival slumbers nigh.”

deposited in the vault under the south aisle of this noble structure, which still proves to us the taste as well as the wealth of the Knights Templars.<sup>b</sup>

In the choir was soon after placed his bust in marble, with the following inscription by the Reverend Martin Routh, D.D., President of Magdalen College, Oxford:—

"BARO THURLOW A THURLOW,  
Summus Regni Cancellarius,  
Hic sepultus est.  
Vixit Annis LXXV. Mensibus x.  
Decessit anno Salutis Humane MDCCCIV.  
Idibus Septembris.  
Vir altâ mente et magnâ præditus  
Qui  
Nactus præclarissimas occasiones  
Optimè de patriâ merendi,  
Jura Ecclesiæ, Regis, Civium  
In periculum vocata  
Firmo et constanti animo  
Tutatus est."

<sup>b</sup> Here I saw Thurlow reposing, when, nearly forty years after, at the conclusion of funeral rites as grand and far more affecting, I assisted in depositing the body of my departed friend, Sir William Follett, by his side.\*—May I be allowed to pay a passing tribute of respect to the memory of this most eminent, amiable, and virtuous man?—If it had pleased Providence to prolong his days, he would have afforded a nobler subject for some future biographer than most of those whose career it has been my task to delineate. When he was prematurely cut off, the highest office of the law was within his reach; and I make no doubt that, by the great distinction he would have acquired as a judge, as a statesman, and as an orator, a deep interest would have been given to all the incidents of his past life, which they want with the vulgar herd of mankind, because he never sat on the bench, nor had titles of nobility conferred upon him. One most remarkable circumstance would have been told respecting his rise to be the most popular advocate of his day, to be Attorney-General, and to be a powerful debater in the House of Commons—that it was wholly unaccompanied by envy. Those who have outstripped their competitors have often a great drawback upon their satisfaction, by observing the grudging and ill-will with which, by some, their success is beheld. Such was Follett's inoffensive manners and

unquestioned superiority, that all rejoiced at every step he attained—as all wept when he was snatched away from the still higher honours which seemed to be awaiting him. It is said—

"Envy will merit, as its shade, pursue,  
But, like a shadow, proves the substance true."

"Fame calls up calumny and spits,  
Thus shadow owes its birth to light."

But *envy* may be conquered. I do not agree in the sentiment contained in Pope's letter to Addison: "I congratulate you upon having your share in that which all the great men and all the good men that ever lived have had their share of—envy and calumny. 'To be uncensured and to be obscure is the same thing;'—nor in the aphorism of Mr. Burke: "Obloquy is a necessary ingredient in the composition of all true glory;"—nor in the Spanish proverb to be found in Lopez de Vega:

"Dixo un discreto que era matrimonio  
Polibio, el de la envidia y el de la fama  
Que se apartava solo con la muerte"—

thus translated by Lord Holland:—

"Envy was Honour's wife, a wise man said  
Ne'er to be parted till the man was dead."

There is a superlative degree of excellence which, like that of superior intelligences, men cease to envy, because they feel that to them it is hopelessly unattainable.

\* Sir R. Peel, the Prime Minister, Lord Lyndhurst, the Chancellor, and many distinguished persons on both sides in politics, were present.

This unqualified praise may be excused in an epitaph ; but the biographer, in estimating the character and the conduct of the individual so extolled, is bound to notice his weaknesses, and to warn others against the faults which he committed. Even as a Judge, the capacity in which he appears to most advantage, although he was entirely free from personal corruption or undue influence, and uniformly desirous to decide fairly, he was not sufficiently patient in listening to counsel, and he did not take the requisite pains to extricate the facts or to comprehend nice legal distinctions in complicated cases which came before him. Without devoting much time out of court to the duties of his office, no judge can satisfactorily discharge them, and Thurlow seems to have despised the notion of reading law to extend or keep up his stock of professional knowledge. Only on very rare occasions would he take the trouble in his library of examining the authorities cited at the bar, and he used to prepare himself for giving judgment in his way from Great Ormond Street to the Court of Chancery. "An old free speaking companion of his, well known at Lincoln's Inn, would say, 'I met the Great Law LION this morning going to Westminster and bowed to him, but he was so busy reading in the coach what his *provider* had supplied him with, that he took no notice of me.'"<sup>c</sup> He certainly had an excellent head for law, and with proper pains he might have rivalled the fame of Lord Nottingham and Lord Hardwicke ; but he was contented with the character of a political Chancellor, and, so that he retained power, he was indifferent as to the opinion which might be formed of him by his contemporaries or by posterity.<sup>d</sup> He often treated the bar with great rudeness, and his demeanour to the other branch of the profession sometimes awakened recollections of Jeffreys. A solicitor once had to prove a death before him, and being told upon every statement he made, "Sir, that is no proof," at last exclaimed, much vexed, "My Lord, it is very hard that you will not believe me ; I knew him well to his last hour ; I saw him dead and in his coffin, my Lord. My Lord, he was my client." *Lord Chancellor* : "Good God, sir ! Why did you not tell me that before ? I should not have doubted

<sup>c</sup> Cr. i. 80.

<sup>d</sup> Lord Eldon used to be fond of quoting Thurlow as a great lawyer ; but this was partly from personal liking, Thurlow having patronised him at the bar, and was partly in allusion to Lord Loughborough, whom he de-

spised as a Judge, and of Lord Mansfield, whom he always wished to depreciate from the time when he bade adieu to the King's Bench, on the ground that only Westminster and Christchurch men were favoured there.—*Twiss's Life of Eldon.*

the fact one moment; for I think nothing can be so likely to kill a man as to have you for his attorney.”<sup>e</sup>

As to legal reform, instead of imitating those who held the Great Seal in the time of the Commonwealth and soon after the Revolution, he not only originated no measures of improvement himself, but he violently and pertinaciously opposed those which were brought forward by others. Mr. Pitt, though thwarted by Thurlow, really seems to have had a desire to reform our jurisprudence as well as our commercial policy, till the breaking out of the French Revolution,—when the terror of Jacobinism put an end to all improvement, and it was unwisely determined to try to cure disaffection by rendering the laws more arbitrary.

Of statesmanship Thurlow several times declared, with much candour and truth, that he knew very little. Unless when he went into open opposition to the Minister under whom he held the Great Seal, he blindly adopted whatever measures were brought forward by the Government, supporting them much less by information and argument than by zeal and violence. Yet he seems to have been considered a very useful partisan—from the protection he could afford to his friends, and the terror he inspired into his enemies. He served Lord North with unwearying good faith, and I really do not think he can justly be accused of treachery to Lord Rockingham, as, while in the Cabinet with that nobleman, he avowedly led the opposition from the woolsack. His double-dealing during the King's illness has affixed a permanent blot upon his character; but his subsequent hostility to Mr. Pitt, though very intemperate and wrong-headed, cannot be denominated perfidious, as it was openly manifested in parliament, instead of working in secret intrigues. His career, after he was deprived of office, must be allowed to have been obscure and inglorious,—his late-born zeal for liberty appearing to have sprung from personal dislike of the Minister—not from any altered view he had taken of constitutional rights,—and having died away with the chance of his own restoration to office.

His judicial patronage was upon the whole well exercised, notwithstanding his occasional indulgence in personal antipathies, as in the case of Pepper Arden.<sup>f</sup> When created Lord

<sup>e</sup> This jest, which was probably thought innocuous by the author of it, is said to have ruined the reputation and the business of the unfortunate victim.

<sup>f</sup> Thurlow's preference of Buller to Pep-

per Arden is thus referred to by Peter l'indar :—

“And *bonâ fide*, not of rapture fuller,  
Thurlow the Seal and royal conscience  
keeper

Chancellor he would not remove any of the officers appointed by his predecessors, or any Commissioners of Bankrupt,<sup>5</sup> except one, who offended him by applying for the interest of his mistress.<sup>b</sup> The public owed to him the services of Lord Kenyon, and other eminent Judges; and he first discovered, and put in the line of promotion, the greatest lawyer of our times—John Scott, afterwards the Earl of Eldon.

In his ecclesiastical appointments he is said to have been less scrupulous, and to have been chiefly influenced by personal favour or political convenience. Yet, forming a high opinion of Horsley, merely from accidentally reading his Letters to Priestley, he gave him a stall at Gloucester, saying that “those who supported the Church should be supported by it;” and afterwards recommended him to the episcopal bench. When Potter, who dedicated to him a translation of *Æschylus*, had published his translations of *Sophocles* and *Euripides*,<sup>A.D. 1788.</sup> Thurlow procured for him a stall at Norwich, observing that “he did not like to promote him earlier for fear of making him indolent.” He first put other eminent divines in the line of high promotion.<sup>i</sup>

Sees his prime favourite, Mr. Justice  
Buller,  
High thron'd in Chancery, grieve the  
poor Sir Pepper.”

I have steadily refrained from printing or even showing complimentary letters addressed to me as an author, but I must make an exception in favour of the following from the late Lord Alvanley, a most accomplished nobleman, and long the charm of intellectual society in London:—

“Bath, Dec. 23rd, 1846.

“My dear Lord,

“I trust you will allow a man who, during the last year, has been suffering under a most excruciating disorder, to thank you for the relief and pleasure which he has received in the perusal of your admirable work, ‘*The Lives of the Chancellors*,’ a book which, both here and abroad, has already taken its station amongst the great classical authors of biography in this or any other age, and which has most justly done so, for in it are blended, with peculiar felicity and good taste, the grave and vigorous style fitted to deep research, and the lighter one adapted to anecdote and traits of character, and where, without reference to party or country, praise has justly, and without flattery, been bestowed on the great and good, and blame, where blame

was due, has been tempered by a proper consideration of the times in which the various characters lived, and extenuating allowance made for the weaknesses of human nature. I shall make no apology for writing to you, notwithstanding our slight acquaintance, because, in the first place, you have become public property, and must submit to be thanked by those whom you have instructed and amused; and in the next, because I should be ungrateful did I not show you my gratitude for having vindicated my father’s character from the slight and oppression which he underwent at the hands of Lord Thurlow—slight and oppression to which, however, time has done justice, through the opinions of wiser lawyers than Lord Thurlow ever was. Thanking you again for this act of justice, and for the gratification which I have had in the study of your work,

“I am

“Your obedient servant,

“ALVANLEY.”

<sup>5</sup> It had been usual for a new Lord Chancellor to have what was called “a scratch,”—sweeping away the greater part of the seventy, and substituting his own favourites.

<sup>b</sup> He thus imitated the conduct of George II. with respect to Lady Suffolk.

<sup>i</sup> Having received the copy of an Essay

On one occasion, a considerable living fell vacant in the Chancellor's gift, which was solicited by Queen Charlotte, and promised to her *protégé*. The curate who had served in the parish some years, hearing who was likely to succeed, modestly applied for the Chancellor's intercession, that on account of his large family he might be continued in the curacy. The expectant rector calling to return thanks, Thurlow introduced the case of the curate, which he represented with great strength and pathos; but the answer was, "I should be much pleased to oblige your Lordship, but unfortunately I have promised it to a friend." *Thurlow*: "Sir, I cannot make this gentleman your curate, it is true; but I can make him the rector, and by G—d he shall have the living as he cannot have the curacy." He instantly called in his secretary, and ordered the presentation to be made out in favour of the curate,—who was inducted, and enjoyed the living many years.<sup>k</sup>

The following anecdote is sent to me by a venerable dignitary of the Church:—"A poor curate, with some difficulty, (it was supposed he feed the porter,) obtained admission into Lord Thurlow's house, and waited for him till he returned from the Chancery Court. When Lord Thurlow saw him, he broke out in his usual manner, by abruptly and loudly asking him questions. "Who are you? What do you want? How came you here? What interest have you? Who sent you? What *Lord's name* do you come in? What *Lord's name*, I say, do you come in?" "Indeed, my Lord," was the answer, "I came to apply for the living of —; but I have no interest. I come in no Lord's name but the Lord of Hosts!" "The Lord of Hosts!" said the Chancellor, "the Lord of Hosts! Well! you are the very first parson that ever applied to me in *that Lord's name* before, and I'll be — if you shan't have the living."

Of his oratory I have given the most favourable specimens I could select, using the freedom to correct his inaccuracies of language; for even the printed reports justify Mr. Butler's remark, that "though Lord Thurlow spoke slowly and deliberately, yet his periods were strangely confused, and often un-

from a Yorkshire parson which pleased him, he thus wrote to him: "Sir,—I return many thanks for the Essay you have sent me. Give me leave, in my turn, to inquire after your situation, and how far that or your inclination attaches you to Leeda or Yorkshire. I am, Sir, your ob<sup>t</sup> serv<sup>t</sup> THURLOW.—I wish your

answer in return of post."

<sup>k</sup> This anecdote I have from a nephew of the Chancellor. How he settled the matter with the Queen I have not heard, but we may suppose that her Majesty highly approved of this *equitable decision*.

grammatical.”<sup>m</sup> It argues little for the discrimination and taste of those to whom they were addressed, that they were listened to with profound attention, and produced a deep effect, though chiefly made up of “sound and fury;” while Edmund Burke acquired the nickname of the “*Dinner-bell*,” by delivering the finest speeches for depth of thought and beauty of diction to be found in our parliamentary records.

Thurlow himself appears always to have had a great contempt for his audience in the House of Peers, and to have reckoned with daring confidence on their ignorance. Of this we have a striking instance in the Memoirs of Bishop Watson, who, having informed us that in a speech made during the King’s illness in 1788, respecting the right of the Prince of Wales to be Regent, he himself had quoted a definition of “right” from GROTIUS, thus proceeds: “The Chancellor in his reply boldly asserted that he perfectly well remembered the passage I had quoted from Grotius, and that it solely respected *natural*, but was inapplicable to *civil* rights. Lord Loughborough, the first time I saw him after the debate, assured me that, before he went to sleep that night, he had looked into Grotius, and was astonished to find that the Chancellor, in contradicting me, had presumed on the ignorance of the House, and that my quotation was perfectly correct. What miserable shifts do great men submit to in supporting their parties!”<sup>n</sup>

We have the following very striking representation of his oratory from a skilful rhetorician:—“He rose slowly from his seat; he left the woolsack with deliberation; but he went not to the nearest place like ordinary Chancellors, the sons of mortal men; he drew back by a pace or two, and, standing as it were askance, and partly behind the huge bale he had quitted for a season, he began to pour out, first in a growl, and then in a clear and louder roll, the matter which he had to deliver, and which, for the most part, consisted in some positive assertions, some personal vituperation, some sarcasms at classes, some sentences pronounced upon individuals, as if they were standing before him for judgment, some vague mysterious threats of things purposely not expressed, and abundant protestations of conscience and duty, in which they who keep the consciences of Kings are somewhat apt to indulge.”<sup>o</sup>

Butler, who had often heard him, ascribes to him a finesse

<sup>m</sup> Reminisc. i. 142.

<sup>n</sup> Life of Watson, 221.

<sup>o</sup> Lord Brougham’s Characters, i. 94.

which I should not have discovered from the printed reports of his speeches,—for his apparent ignorance I should judge wholly unaffected, and he seems to me always to aim direct blows against his adversary:—"He would appear to be ignorant of the subject in debate, and, with affected respect, but visible derision, to seek for information upon it; pointing out, with a kind of dry solemn humour, contradictions and absurdities which he professed his own inability to explain, and calling upon his adversaries for their explanation. It was a kind of masked battery, of the most searching questions and distressing observations; it often discomfited his adversary, and seldom failed to force him into a very embarrassing position of defence: it was the more effective, as, while he was playing it off, his Lordship showed he had command of much more formidable artillery."

Lord Thurlow does not figure in Horace Walpole's list of noble and royal authors—never, as far as I know, having taken the trouble even to publish a pamphlet or a speech. Although he knew nothing of political economy, or of any science,<sup>p</sup> he had made himself thoroughly acquainted with the classics, Latin and Greek. These studies were the delight of his old age. When living in retirement at Dulwich, he found some consolation for the loss of power and of political excitement, in superintending the classical education of his nephews, who lived under his roof, and to whom he was very tenderly attached. For their instruction and amusement he would sometimes himself attempt to translate into English verse favourite passages of the ancient authors they were reading. As a curious specimen of his poetical powers I am enabled to lay before the public the following translation of a Chorus, from the "Hippolytus" of Euripides:<sup>q</sup>

<sup>p</sup> He is said to have been very fond of music, and to have understood the theory of it perfectly, although the soothing charm usually imputed to it does not seem to have operated upon him.

<sup>q</sup> The learned reader will recollect that the guilty love of Phædra for Hippolytus had been disclosed to him by the Nurse, and that the heroine, on account of the repulæ she met with, had declared her determination to hang herself.—I subjoin the original Chorus:

Ἥλιβάτοις ὑπὸ κευθμῶσι γενοίμεν,  
 ἵνα με περὸ ὕψαν ὄρνῃ  
 Θεὸς ἐν ποτανοῖς ἀγέλησιν θείῃ.  
 Ἀρθεῖν γὰρ ἐπὶ πόντιον κύμα

Τὰς Ἀδριηνὰς ἀκτὰς,  
 Ἥριθανοῦ θ' ὕδωρ.  
 Ἔνθα πορφύρεον σταλάσσουσιν  
 Εἰς οἶδμα πατρὸς τριτάλαινα  
 Κόραι, Φαέθοντος οἴκτῳ, δακρύων  
 Τὰς ἠλεκτροφαεῖς αὐγὰς.  
 Ἐσπερίδων δ' ἐπὶ μηλόσπορον ἀκτὰς  
 Ἀνύσαμεν τὰν Ἀοιδᾶν,  
 Ἴν' ὁ ποντομέδων πορφυρέας λίμνης  
 Ναύταις οὐκ ἔθ' ὁδὸν νέμει, σεμνὸν  
 Τέρμονα κυρῶν οὐρα-  
 νοῦ τὸν Ἀτλας ἔχει·  
 Κρῆναί τ' ἀμβροσίαι χέονται  
 Ζητὸς μελᾶθρων παρὰ κοίταις,  
 Ἴν' ὀλβισθῶρος ἄξει ζαθέα



"Oh, could I those deep caverns reach  
 Where me, a winged bird, among  
 The feather'd race  
 Some God might place!  
 And rising could I soar along  
 The sea-wave of the Adrian beach!  
 And by the Po my pinions spread,  
 Where, in their father's ruddy wave,  
 Their amber tears his daughter shed,  
 Still weeping o'er a brother's grave!  
 Or to those gardens make my way,  
 Where carol the Hesperian maids,  
 And He, who rules  
 The purple pools,  
 The sailor's further course impedes,  
 The awful limits of the sky  
 Fixing, which Atlas there sustains!  
 And springs ambrosial near the dome  
 Of Jove still water those rich plains,  
 Whence to the Gods their blessings come.

## I.

White-wing'd bark of Cretan wood,  
 Which across the briny main,  
 Over the sea-raging flood,  
 From her happy home our Queen  
 Convey'd, a most unhappy bride,  
 In ill-starr'd wedlock to be tied!

## II.

Dire both omens; when her flight  
 Left behind the Cretan land;  
 And when Athena came in sight,  
 Where, on the Mnuychian strand,  
 They tie the hawser's twisted end,  
 And on the mainland straight descend.

## III.

For unhallow'd passion rent,  
 Planted deep, her lab'ring breast,  
 Dire disease, which Venus sent,  
 And, with sore misfortune prest,  
 The chord suspended from the dome  
 Of her ill-fated bridal room.

Χθὼν εὐδαιμονίαν θεοῖς.  
 Ω λευκόπτερε Κρησία  
 Πορθμῖς, ἃ διὰ πόντιον  
 Κύμ' ἀλίπτυπον ἄλμας  
 Ἐπόρευσας ἐμὰν ἀνασσαν  
 Ὀλβίων ἀπ' οἴκων  
 Κακονυμφότατον ὄνασιν.  
 Ἡ γὰρ ἀπ' ἀμφοτέρων,  
 Ἡ Κρησίας ἐκ γᾶς δύσορνος  
 Ἐπτατο κλεινὰς Ἀθήνας, Μου-  
 νυχίου δ' ἐπ' ἀκταῖς ἐκδήσατο  
 Πλεκτὰς πεισμάτων ἀρχάς,  
 Ἐπ' ἀπείρου τε γᾶς ἔβασαν.

Ἄνθ' ὧν οὐχ ὁσίων ἐρώ-  
 των δεινᾷ φρένας Ἀφροδί-  
 τας νοσῶ κατεκλάσθη.  
 Χαλεπῇ δ' ὑπέραντλος οὖσα  
 Συμφορᾷ, τεράμων  
 Ἀπὸ νυμφιδίων κρεμαστὸν  
 Ἄψεται ἀμφὶ βρόχων  
 Λευκῇ καθαρμόζουσα δέρφ,  
 Δαίμονα στυγνὸν καταιδεσθεῖ-  
 σα, τάν τ' εὐδοξον ἀνθαιρουμένα  
 Φάμαν, ἀπαλλάσσουσα  
 Τ' ἀλγεινὸν φρενῶν ἔρωτα.

## IV.

Round her milk-white neck she'll tie,  
 Dreading much the adverse frown  
 Of the Goddess—prizing high  
 Her unspotted chaste renown—  
 And from her heart resolv'd to move,  
 This only way, the pain of Love."

There is likewise extant, in his handwriting, a translation of the whole of the BATPAXOMYOMAXIA, or "Battle of the Frogs and the Mice," the merit of which may be judged of by the following extract:—

BLADDER-CHEEK, his Ranish Majesty, having vauntingly begun the dialogue,—

"Him CRUMB-CATCH answer'd quick in vocal sounds,  
 'Why, friend, my birth demand, so known to men,  
 To Gods, and to the fowl who wing the sky?  
 My name is *Crumb-Catch*, and I am the son  
 Of Nibble-Biscuit, my great-hearted sire;  
 Lick-Mill's my mother, King Gnaw-Gammon's child.  
 She bore me in a hole, and brought me up  
 With figs, and nuts, and ev'ry sort of food.    \  
 But how make me thy friend, unlike in kind?  
 Thy living is in waters; but my food,  
 Whatever man is us'd to eat. The loaf  
 Thrice-kneaded, in the neat round basket kept  
 Escapes not me, nor wafer, flat and long,  
 Mix'd with much sesame, nor bacon-slice,  
 Nor liver, cloth'd in jacket of white lard,  
 Nor cheese, fresh curdled from delicious milk,  
 Nor the good sweetmeats, which the wealthy love,  
 Nor what else cooks prepares to feast mankind,  
 Pressing their dishes with each kind of sauce.

But these two chief I fear in all the earth,  
 The hawk and cat, who work me heavy woe;  
 And doleful trap, where treach'rous Death resides.

BLADDER-CHEEK, smiling to all this, replied:  
 Upon the helly's fare thou vankest high,  
 My guest! We, too, have wonders to behold,  
 Numberless, both by water and by sod;  
 For to the frogs the son of Saturn gave  
 A lot amphibious, to leap on earth,  
 And under water hides their body safe.  
 If thou wouldst these explore, they are at hand:  
 I'll take thee on my hack.'"<sup>1</sup>

<sup>1</sup> Τὸν δ' αὖ Ψυχάρπαξ ἡμείβετο φωνη-  
 σεντε'  
 Τίπτε γένος τοῦμόν ζητεῖς, φίλε, δῆλον  
 ἅπανιν

Ἀνθρώποις τε, θεοῖς τε, καὶ οὐρανίους πε-  
 τηνοῖς;  
 Ψυχάρπαξ μὲν ἐγὼ κυκλήσκομαι· εἰμὶ δὲ  
 κούρος

The ex-Chancellor would likewise drive away *ennui* by writing Latin verses. The late Rev. F. Howes, when a boy of sixteen, having sent him the following charade,—

“Forma sum duplici: sub amico pectore, Lector,  
Dum legis hæcce, tuo, pars *mea prima* latet:  
Frigida sit quamvis et candida, parte *secunda*  
Non est candidior, frigidiorve Cloe.  
*Tota* quidem nigra sum; vox est mihi *rauca* rudisque;  
Fata tamen Veteres me cecinisse ferunt.”

in two days his Lordship replied thus:—

“Quicquid delirat *Cor* vatis inania questi,  
Candidior *nix* est frigidiorque Cloe.  
Nec Priscis tantum sua *Cornix* ora resolvit,  
Si nobis etiam garrula prodit avis.”

Tired of deeper studies, Thurlow became, in his retirement, a great reader of novels; and, in one instance, so interested was he in the plot, that he despatched his groom from Dulwich to London, after ten o'clock at night, for the concluding volume, that he might know the fate of the heroine before trying to go to sleep.

His great ambition from early youth, and through life, was to shine in conversation, and in this department of genius he seems to have met with brilliant success. He had a stupendous

Τρωξάρταο πατὴρς μεγαλήτορος, ἡ δὲ νυ  
μητήρ  
Δειχομύλη θυγάτηρ Πτεροστρώκτου βασι-  
λῆος.  
Γείνατο δ' ἐν καλύβῃ με, καὶ ἐξεθρέψασατο  
βρωτοῖς,  
Σύκοις καὶ καρύοις καὶ ἐδέσμασι παντο-  
δαποῖσι.  
Πῶς δὲ φίλον ποιη με, τὸν εἰς φύσιν  
οὐδὲν ὁμοῖον;  
Σοὶ μὲν γὰρ βίος ἐστὶν ἐν ὕδασιν· αὐτὰρ  
ἐμοίγε,  
“Ὅσσα παρ' ἀνθρώποις, τρώγειν ἔθος. Οὐδέ  
με λήθει  
“Ἄρτος τρισκωπάνιστος ἐπ' εὐκύκλου κα-  
νέου,  
Οὐδὲ πλακοῦς τανύπεπλος ἔχων πολὺ ση-  
σαμότυρον,  
Οὐ τόμοις ἐκ πτέρνης, οὐχ ἥπατα λευκο-  
χίτωνα,  
Οὐ τυρὸς νεόπηκτος ἀπὸ γλυκεροῦ γά-  
λακτος,  
Οὐ χρηστὸν μελίτωμα, τὸ καὶ μάκαρες  
ποθέουσιν,  
Οὐδ' ὅσα πρὸς θοίνης μερόπων τεύχουσιν  
μάγειροι

Κοσμοῦντες χύτρας ἀρτίμασι παντοδα-  
ποῖσιν.

‘Ἀλλὰ δύνω μάλα πάντα, τὰ δειδία πᾶσαν  
ἐπ' αἶαν,  
Κίρκον καὶ γαλήην, οἷ μοι μέγα πένθος  
ἄγουσι,  
Καὶ παγίδα στονόεσσαν, ὅπου δολόεις πέλε  
πότμος·

Πρὸς τὰδε μευδίσσας Φυνσίγναθος ἀντίον  
ἦνθα·

Ξεῖνε, λίην αὐχεῖς ἐπὶ γαστέρι· ἔστι καὶ  
ἡμῖν

Πολλὰ μάλ' ἐν λίμνῃ καὶ ἐπὶ χθονὶ θαύ-  
ματ' ἰδέσθαι.

“Ἀμφίβιον γὰρ ἔδωκε νομὴν βατράχοις  
Κρονίων,

Σκιρτῆσαι κατὰ γῆν, καὶ ἐφ' ὕδασι σῶμα  
καλύψαι,

(Στομίχλειος δυσὶν μεμερισμένα δώματα  
ναίειν.)

Εἰ δ' ἐθέλεις καὶ ταῦτα δαήμεναι, εὐχερές  
ἐστί.

Βαῖνέ μοι ἐν νώτοισι.—

Hom. Batr. 24.

memory, a quick sense of the ridiculous, a copious flow of words, and an *emphasis* in talk which occasionally supplied the place of epigram. With these qualifications, if he had not made his fortune in the law, he would have risen to great eminence as a "diner-out." He was rather fond of literary society, and, laying aside all official privilege, he boldly descended into the arena against controversial gladiators. He received this high compliment from Doctor Johnson, while yet at the bar: "Depend upon it, sir, it is when you come close to a man, in conversation, that you discover what his real abilities are: to make a speech in a public assembly is a knack. Now I honour Thurlow, sir; Thurlow is a fine fellow; he fairly puts his mind to yours." After his Lordship had been elevated to be Chancellor, the great Lexicographer said to Boswell, "I would prepare myself for no man in England but Lord Thurlow. When I am to meet him, I should wish to know a day before." Jeminy goes on to say, "How he would have prepared himself, I cannot conjecture. Would he have selected certain topics, and considered them in every view, so as to be in readiness to argue them at all points? And what may we suppose those topics to have been? *I once started the curious inquiry to the great man who was the subject of this compliment; he smiled, but did not pursue it.*"<sup>a</sup>

Thurlow was not ill-natured in conversation; and Johnson was considered a more terrible opponent. Craddock, who knew both intimately, says, "I was always more afraid of Johnson than of Thurlow; for though the latter was sometimes very rough and coarse, yet the decisive stroke of the former left a mortal wound behind it."<sup>b</sup>

According to the fashion still prevailing in his time, he used to have long symposiac *sittings* after dinner, during which his wit was stimulated by the brisk circulation of the bottle. "In the afternoon of life, conviviality, wine, and society unbent his mind. It was with Mr. Rigby, Lord Gower, Lord Weymouth, Mr. Dundas, and a few other select friends, that he threw off his constitutional severity."<sup>c</sup> Though by no means subject to the charge of habitual intemperance, yet from occasional indulgence he sometimes found himself in scenes which, according to our sober notions, were not very fit for a Chancellor. "Returning, by way of frolic," relates Sir Nathaniel Wraxall, "very late at night, on horseback, to Wimbledon from Addiscombe, the seat of Mr. Jenkinson, near Croydon, where the

<sup>a</sup> Boswell's Life of Johnson, iv. 192, 350.

<sup>b</sup> Cr. i. 74.

<sup>c</sup> Wrax. Mem. i. 527.

party had dined, Lord Thurlow, the Chancellor, Pitt, and Dundas, found the turnpike-gate, situate between Tooting and Streatham, thrown open. Being elevated above their usual prudence, and having no servant near them, they passed through the gate at a brisk pace, without stopping to pay the toll, regardless of the remonstrances and threats of the turnpike-man, who, running after them, and believing them to belong to some highwaymen who had recently committed some depredation on that road, discharged the contents of his blunderbuss at their backs. Happily he did no injury.\*

Old Baron Maseres, who used to say that he was born on the day when Lord Holt tried Tutchin, the libeller, and whom I well remember walking about, at the age of ninety, in the costume of the reign of George I., had been very intimate with Thurlow, and used to relate this anecdote of him:—"When Attorney-General, for some reason or another, by way of frolic, he had disguised himself as a sailor, and returning home very late at night through Long Acre, he was seized by a press-gang, and, his oaths rather being at variance with his protestations that he was a *gentleman*, they carried him to their rendezvous at the Tower. Thence he wrote a letter to the First Lord of the Admiralty for his release—which, after many imprecations upon those who had deprived him of his liberty, thus good-humouredly concluded: "I hope your Lordship will not insist on my becoming a *foremast-man*, knowing that I am already serving his Majesty as a *General officer*."

There are a few of Thurlow's pointed sayings handed down to us, but I suspect that even a Boswell could not have supported for him the reputation he enjoyed in his own time. In the Duchess of Kingston's case, two learned Doctors of the Civil Law pouring forth heavily much recondite lore, having gravely argued that the sentence of the Ecclesiastical Court, annulling her first marriage, was decisive in her favour,—the Attorney-General was pleased to remark, that "the congress of two civilians from Doctors' Commons always reminded him of the noted observation of Cicero, '*Mirabile videtur quod non rideat Haruspex cum Haruspiciem viderit.*'"<sup>†</sup> In the debates on the Regency, a prim Peer, remarkable for his finical delicacy, and formal adherence to etiquette, having cited pompously certain resolutions, which he said had been passed by a party of noblemen and gentlemen of great distinction at the Thatched House Tavern, the Lord Chancellor, in adverting to these, said, "As

\* Wrax. Mem. i. 478.

† De Natura Deorum, lib. i. c. 26.

to what the noble Lord 'in the red riband told us that he had heard at the *alehouse*——." Such strokes of coarse jocularity tell more certainly in either House than the play of the most refined wit.—Even when in administration, he affected to laugh freely at official men and practices. Thus, when on the woolsack, having mentioned some public functionary whose conduct he intimated that he disapproved, he thought fit to add, "But far be it from me to express any blame of any official person, whatever may be my opinion; for that I well know would be sure to bring down upon me a panegyric on his character and his services!"—Lamenting the great difficulty he had in disposing of a high legal situation, he described himself as long hesitating between the intemperance of A. and the corruption of B., but finally preferring the man of bad temper. Afraid lest he should have been supposed to have admitted the existence of pure moral worth, he added,—“Not but that there was a d—d deal of corruption in A.'s intemperance.”—Happening to be at the British Museum viewing the Townley Marbles, when a person came in and announced the death of Mr. Pitt, Thurlow was heard to say, “A d—d good hand at turning a period!” and no more.\*

The following anecdote was related by Lord Eldon:—“After dinner, one day when nobody was present but Lord Kenyon and myself, Lord Thurlow said, ‘Taffy, I decided a cause this morning, and I saw from Scott’s face that he doubted whether I was right.’ Thurlow then stated his view of the case, and Kenyon instantly said, ‘Your decision was quite right.’ ‘What say you to that?’ asked the Chancellor. I said, ‘I did not presume to form a judgment upon a case in which they both agreed. But I think a fact has not been mentioned which may be material.’ I was about to state the fact and my reasons. Kenyon, however, broke in upon me, and, with some warmth, stated that I was always so obstinate, there was no dealing with me. ‘Nay,’ interposed Thurlow, ‘that’s not fair. You, Taffy, are obstinate, and give no reasons; you, Jack Scott, are obstinate, too; but then you give your reasons, and d—d bad ones they are!’”

Thurlow having heard that Kenyon had said to a party who had threatened to appeal from his decision, by filing a bill in Chancery, “Go into Chancery then: *abi in malam rem!*”—the next time he met the testy Chief Justice, he said, “Taffy, when did you first think the Court of Chancery was such a

\* This last saying I have from a person who was present.

*mala res?* I remember when you made a very good thing of it."

Pepper Arden, whom he hated and persecuted, having been made a Welsh Judge by Pitt, and still continuing to practise at the Chancery bar, was arguing a cause against his boon companion, Graham, and something turning upon the age of a lady, who swore she was only forty-five, he said he was sure she was more, and his antagonist looking dissent, he exclaimed, so as to be heard by all present, "I'll lay you a bottle of wine of it." Thurlow did not swear aloud, but, by an ejaculation and a frown, called the unwary counsel to a sense of the impropriety he had committed. *Pepper Arden*.—"I beg your Lordship's pardon: I really forgot where I was." *Thurlow*.—"I suppose, sir, you thought you were sitting on the bench in your own court administering justice in Wales!"

Considering Thurlow's relish for literary society, we must wonder and regret that he did not continue to cultivate the friendship of the man with whom he had been so intimate when they were fellow pupils in the solicitor's office; but he does not seem by any means properly to have appreciated the fine imagination, the quiet humour, the simple manners, or the affectionate heart, which ought to have attached him to Cowper. While the poet watched with solicitude the career of the lawyer, rejoicing at every step of his advancement, the lawyer was quite indifferent to the successes or the sorrows of the poet. Cowper, though neglected and forgotten by his brother idler of Southampton Row, who now filled the most exalted office in the kingdom, hearing that he was laid up by the gout, lovingly blind to all his faults, thus writes to Mr. Hill:—"These violent attacks of a distemper so often fatal, are very alarming to those who esteem and respect the Chancellor as he deserves. A life of confinement and anxious attention to important objects, where the habit is bilious to such a terrible degree, threatens to be a short one; and I wish he may not be made a topic for men of reflection to moralise upon, affording a conspicuous instance of the transient and fading nature of all human accomplishments and attainments." On Thurlow's elevation to the woolsack, Cowper was strongly advised to remind him of their former intimacy, but he declined to do so for the reasons expressed in the following letter to Mr. Unwin:—"I feel much obliged to you for your kind intimation, and have given the subject of it all my best attention, both before I received your letter and

May 6,  
1780.

Jan. 18,  
1788.

since. The result is, that I am persuaded it will be better not to write. I know the man and his disposition well; he is very liberal in his way of thinking,—generous and discerning. He is well aware of the tricks which are played on such occasions; and, after fifteen years' interruption of all intercourse between us, would translate my letter into this language,—‘Pray remember the poor.’ This would disgust him, because he would think our former intimacy disgraced by such an oblique application. He has not forgotten me; and if he had, there are those about him who cannot come into his presence without reminding him of me; and he is also perfectly acquainted with my circumstances. It would, perhaps, give him pleasure to surprise me with a benefit; and if he means me such a favour, I should disappoint him by asking it.”—However, at the continued instigation of his friends, he afterwards sent Thurlow a copy of his published poems, by this time familiar and dear to all men of taste, with the following stiff letter of compliment:—

“Olney, Bucks, Feb. 25, 1782.

“My Lord,

“I make no apology for what I account a duty; I should offend against the cordiality of our former friendship should I send a volume into the world, and forget how much I am bound to pay my particular respects to your Lordship upon that occasion. When we parted, you little thought of hearing from me again, and I as little thought I should live to write to you, still less that I should wait on you in the capacity of an author.

“Among the pieces which I have the honour to send, there is one for which I must entreat your pardon; I mean that of which your Lordship is the subject.” My best excuse is, that it flowed almost spontaneously from the affectionate remembrance of a connection which did me so much honour.

“I have the honour to be, though with very different impressions of some subjects, yet with the same sentiments of affection and esteem as ever, your Lordship’s faithful and most obedient humble servant,

“W. COWPER.”

Strange to say, for at least two months no notice was taken of this communication, as we learn from a letter to another correspondent from the poet,—who, though piqued by this mortifying neglect, tried to reconcile himself to it by recollecting how much the Chancellor’s time was occupied. Afterwards, through the mediation of Hayley, Thurlow, who seems to have much admired the tinsel of this versifier, was induced to take



some notice of the author of *THE TASK* and of *JOHN GILPIN*,—without either making any provision for him, or soothing him with personal kindness. Yet when Thurlow was out of office in the year 1783, Cowper writes thus tenderly to Mr. Hill:—“I have an etching of the late Chancellor hanging over the parlour chimney. I often contemplate it, and call to mind the day when I was intimate with the original. It is very like him; but he is disfigured by his hat, which, though fashionable, is awkward; by his great wig, the tie of which is hardly discernible in profile; and by his band and gown, which give him an appearance clumsily sacerdotal. Our friendship is dead and buried.”

After Thurlow had been some years restored to office, Cowper, being again urged to apply to him for some promotion, thus wrote to Lady Hesketh:—“I do not wish to remind the Chancellor of his promise. Ask you why, my cousin? Because I suppose it would be impossible. He has no doubt forgotten it entirely, and would be obliged to take my word for the truth of it, which I could not bear. We drank tea together, with Mrs. C——e, and her sister, in King Street, Bloomsbury, and there was the promise made. I said, ‘Thurlow, I am nobody, and shall be always nobody, and you will be Chancellor. You shall provide for me when you are.’ He smiled, and replied, ‘I surely will.’—‘These ladies,’ said I, ‘are witnesses.’ He still smiled and said, ‘Let them be so, for I will certainly do it.’ But, alas! twenty-four years have passed since the day of the date thereof, and to mention it now would be to upbraid him with inattention to the plighted troth. Neither do I suppose that he could easily serve such a creature as I am if he would.”

Cowper seems to have persevered in his resolution not to claim performance of the promise. Yet, a few months after, he thus writes to Mr. Hill, showing his disinterested and unabated regard for his surly friend:—“The paper tells me that the Chancellor has relapsed, and I am truly sorry to hear it. The first attack was dangerous, but a second must be more formidable still. It is not probable that I should ever hear from him again if he survives; yet, of what I should have felt for him had our connection never been interrupted, I still feel much. Every body will feel the loss of a man of such general importance.”<sup>b</sup>

<sup>b</sup> Thurlow was probably disinclined to patronise Cowper from the part taken by the poet on the question of the African slave trade. He who thought the condition of the

While Cowper was thus neglected, the advances of Hayley, a stranger, met with a more flattering reception. From the low taste for poetry then prevailing in England, he was, during a fleeting space, celebrated as a genius, and Thurlow was pleased with being considered one of his patrons. We have, from the very amiable but vapid versifier, a rather amusing account of their meeting:—

“Nov. 11.

“It will, I know, afford you pleasure to hear that I am engaged to breakfast with the Chancellor, at eight to-morrow morning. He has sent me a polite and cordial invitation by our friend Carwardine.”

“Nov. 12.

“Though honours are seldom, I believe, found to be real enjoyments, yet I may truly say that I have had the honour of breakfasting to-day with the Chancellor, and thoroughly enjoyed it. Breakfast, you know, is my favourite social hour; and though I was by no means recovered from an oppressive cold, yet I passed a very pleasant hour, or rather two, with this singular great man. On my entrance, I told him that I was particularly flattered in being admitted at that friendly hour; for that I was such a hermit, and such a humourist, that I had a horror of dining with a great man. As I came away, he said he hoped I would come some day to a private dinner with him where there was no more form than at his breakfast-table; to which I replied, that if I found his dinuer like his breakfast, I would come whenever he pleased.”<sup>c</sup>

Hayley, emboldened by this condescension, sent the Chancellor a copy of some of the very worst of his poems, and immediately received the following complimentary answer:—  
“The Chancellor presents his best respects to Mr. Hayley, and returns him many thanks for his poems. They give a bright relief to the subject. William is much obliged to him, and Mary more; and, if it may be said without offence, liberty itself derives advantage from this dress.” Hayley exclaimed,

blacks much improved when sent from their own country to the West Indies, must have viewed with contempt

“THE NEGRO’S COMPLAINT.

“Forc’d from home and all its pleasures,  
Afric’s coast I left forlorn,  
To increase a stranger’s treasures,  
O’er the raging billows borne.

“Men from England bought and sold me,  
Paid my price in paltry gold;  
But, though slave they have enroll’d me,  
Minds are never to be sold.”

The Chancellor’s neglect of his early friend is thus ironically recorded by Peter Pindar:—

“Yet let *one* action of the day shine forth  
(And candour loves to dwell upon my  
tongue),

Thurlow could see a Cowper’s modest  
worth,  
And crown with fair reward his moral  
song.”

<sup>c</sup> Mem. of Hayley, i. 370.

"There's flattery for you from the great! Can any poetical vanity wish for more?"<sup>d</sup>

The intercourse between the two Southampton-Row idlers was afterwards renewed. Thurlow, in his retirement, hearing that Cowper was engaged in a blank verse translation of Homer, expressed to a common friend some regret that he should not have preferred rhyme, of which he was so great a master, and in which he had been so successful. The poet thereupon, when he could no longer be suspected of flattering power, thus addressed the ex-Chancellor :—

"I did not expect to find your Lordship on the side of rhyme, remembering well with how much energy and interest I have heard you repeat passages from the 'Paradise Lost,' which you could not have recited as you did unless you had been perfectly sensible of their music. It comforts me, therefore, to know, that if you have an ear for rhyme, you have an ear for blank verse also. It seems to me that I may justly complain of rhyme as an inconvenience in translation, even though I assert in the sequel, that to me it has been easier to rhyme than to write without, because I always suppose a rhyming translator to ramble, and always obliged to do so."

The following answer displays great critical acumen and depth of thought :—

"The scrawl I sent Harry I have forgot too much to resume now. But I think I could not mean to patronise rhyme. I have fancied that it was introduced to mark the measure in modern languages, because they are less numerous and metrical than the ancient; and the name seems to impart as much. Perhaps there was melody in ancient song without straining it to musical notes, as the common Greek pronunciation is said to have had the compass of five parts of an octave. But surely that word is only figuratively applied to modern poetry. Euphony seems to be the highest term it will bear. I have fancied also that euphony is an impression derived a good deal from habit, rather than suggested by nature; therefore, in some degree, accidental, and consequently conventional. Else why can't we bear a drama with rhyme, or the French one without it? Suppose the 'Rape of the Lock,' 'Windsor Forest,' 'L'Allegro,' 'Il Penseroso,' and many other little poems which please, stripped of the rhyme, which might easily be done, would they please as well? It would be unfair to treat rondeaus, ballads, and odes in the same manner, because rhyme makes in some sort a part of the conceit. It was this way of thinking which made me suppose that habitual prejudice would miss the rhyme, and that neither Dryden nor Pope would have dared to give their great authors in blank verse.

"It is impossible to obtain the same sense from a dead language and an ancient author, which those of his own time and country conceived; words and phrases contract from time and use such strong shades of difference from their original import. In a living language, with the familiarity of a whole life, it is not easy to conceive truly the actual sense of current expressions, much less of older authors. No two languages furnish *equipollent* words; their phrases differ, their syntax and their idioms still more widely. But a translation, strictly so called, requires an exact conformity in all those particulars, and also in numbers; therefore it is impossible. I really think at present, notwithstanding the opinion expressed in your preface, that a translator asks himself a good question,—'How would my author have expressed the sentence I am turning into English?' for every idea conveyed in the original should be expressed in English as literally and fully as the genius and use and character of the language will admit of. You must not translate literally,—

'Old daddy Phoenix, a God-send for us to maintain.'

"I will end by giving you the strictest translation I can invent of the speech of Achilles to Phoenix, leaving you the double task of bringing it closer, and of polishing it into the style of poetry:—

'Ah! Phoenix, aged father, guest of Jove!  
I relish no such honours; for my hope  
Is to be honour'd by Jove's fated will,  
Which keeps me close beside these sable ships,  
Long as the breath shall in my bosom stay,  
Or as my precious knees retain their spring.  
Further I say; and cast it in your mind!  
Melt not my spirit down by weeping thou,  
And wailing only for that great man's sake,  
Atrideæ: neither ought you love that man,  
Lest I should hate the friend I love so well.  
With me united, 'tis your nobler part  
To gall his spirit, who has galled mine.  
With me reign equal, half my honours share.  
These will report; stay you here and repose  
On a soft bed; and with the beaming morn  
Consult we, whether to go home or stay.'"

Cowper replied:—

"We are of one mind as to the effect of rhyme or euphony in the lighter kinds of poetry. The pieces which your Lordship mentions would certainly be spoiled by the loss of it, and so would all such. The *ALMA* would lose all its neatness and smartness, and *HUDIBRAS* all its humour. But in grave poems of extreme length, I apprehend that the case is different. I agree with your Lordship that a translation perfectly close is impossible, because time has sunk the original strict import of a thousand phrases, and we have no means of recovering it. But if we cannot be unimpeachably faithful, that is no reason why we should not

be as faithful as we can; and if blank verse affords the fairest chance, then it claims the preference."

Thurlow, probably not convinced, sent the following good-humoured rejoinder:—

"I have read your letter on my journey through London, and, as the chains wait, I shall be short. I did not mean it as a sign of any proscription that you have attempted what neither Dryden nor Pope would have dared, but merely as a proof of their addiction to rhyme for I am clearly convinced that Homer may be better translated than into rhyme, and that you have succeeded in the places I have looked into. But I have fancied that it might have been still more literal, preserving the ease of genuine English and melody, and some degree of that elevation which Homer derives from simplicity."

The soothed hard closed the correspondence with the following epistle, the last that ever passed between these remarkable men, who had known each other half a century:—

"My Lord,

"I haunt you with letters, but will trouble you now with a short line only, to tell your Lordship how happy I am that any part of my work has pleased you. I have a comfortable consciousness that the whole has been executed with equal industry and attention, and am, my Lord, with many thanks to you for snatching such a busy moment to write to me,

"Your Lordship's obliged and affectionate

"humble Servant,

"WILLIAM COWPER."\*

Thurlow's generous anxiety to assist Dr. Johnson proves to us that he was capable of appreciating real excellence, and should make us view his own failings with some forbearance. It is well known that the great lexicographer, shortly before his death, felt a strong desire, for the benefit of his health, to travel into Italy, and that, to enable him to do so, his friends wished to obtain for him an augmentation of his pension from Government. The bustling Boswell having applied on the subject to the Chancellor, received an answer containing these

\* Cowper, referring to these letters, writes to the Rev. Walter Bagot:—"In answer to your question, 'if I have had a correspondence with the Chancellor?' I reply—Yes! We exchanged three or four letters on the subject of Homer, or rather on the subject of my Preface. He was doubtful whether or not my preference of blank verse, as affording opportunity for a closer version, was well

founded. On this subject he wished to be convinced; defended rhyme with much learning and much shrewd reasoning, but at last allowed me the honour of victory, expressing himself in these words: *I am clearly convinced that Homer may be best rendered in blank verse, and you have succeeded in the passages that I have looked into.*"—*Hayley's Life of Cowper*, iii. 28.

kind-hearted expressions:—"I am much obliged to you for the suggestion; and I will adopt and press it as far as I can. The best argument, I am sure, and I hope it is not likely to fail, is Dr. Johnson's merit. But it will be necessary, if I should be so unfortunate as to miss seeing you, to converse with Sir Joshua on the sum it will be proper to ask—in short, upon the means of setting him out. It will be a reflection on us all if such a man should perish for want of the means to take care of his health." Mr. Pitt, who, though himself a scholar, and well grounded in political science, it must be confessed, never testified much respect for literary men, refused in the commencement of his administration to do anything that might be construed into a job. "The Chancellor called on Sir Joshua Reynolds, and informed him that the application had not been successful; but, after speaking highly of Dr. Johnson as a man who was an honour to his country, desired Sir Joshua to let him know that, on granting a mortgage of his pension, he should draw on his Lordship for five or six hundred pounds—explaining the meaning of the mortgage to be, that he wished the business to be conducted in such a manner that Dr. Johnson should appear to be under the least possible obligation." The offer was declined, but called forth the following effusion of gratitude most honourable to both parties:—

"My Lord,—After a long and not inattentive observation of mankind,  
 Sept. 9, the generosity of your Lordship's offer raises in me not less  
 1784. wonder than gratitude. Bounty so liberally bestowed I should  
 gladly receive, if my condition made it necessary; for to such a mind who  
 would not be proud to owe his obligations? But it has pleased God to  
 restore me to so great a measure of health, that, if I should now appropriate  
 so much of a fortune destined to do good, I should not myself escape from  
 the charge of advancing a false claim. My journey to the Continent,  
 though I once thought it necessary, was never much encouraged by my  
 physicians; and I was very desirous that your Lordship should be told of  
 it by Sir Joshua Reynolds as an event very uncertain: for if I grew much  
 better, I should not be willing; if much worse, not able to migrate. Your  
 Lordship was first solicited without my knowledge; but, when I was  
 told that you were pleased to honour me with your patronage, I did not  
 expect to hear of a refusal; yet as I have had no long time to brood hope,  
 and have not rioted on imaginary opulence, this cold reception has been  
 scarce a disappointment; and from your Lordship's kindness I have  
 received a benefit, which only men like you are able to bestow. I shall  
 now live *mihi carior*, with a higher opinion of my own merit."

Johnson, writing at the same time confidentially to Sir Joshua Reynolds, said, "Many words, I hope, are not necessary to convince you what gratitude is excited in my heart by the Chancellor's liberality, and your kind offices."<sup>g</sup>

Thurlow afterwards made a generous atonement for his rough rejection of the claims of another man of genius. Crabbe, the poet, when he first came to London, being in a very destitute condition, wrote to the Lord Chancellor, inclosing him a short metrical effusion, and received for answer a note, in which his Lordship "regretted that his avocations did not leave him leisure to read verses." The indignant bard addressed to the professed contemner of poetry some strong, but not disrespectful, lines, intimating that in former days the encouragement of literature had been considered as a duty appertaining to the illustrious station which his Lordship held. Of this remonstrance no notice whatever was taken for a long time. But Burke and Sir Joshua Reynolds having mentioned in Thurlow's presence the genius and the destitution of the new aspirant, and that he was about to enter the Church, Crabbe, to his great amazement, received a note from the Lord Chancellor, politely inviting him to breakfast the next morning. The reception was more than courteous, the Chancellor exclaiming in a frank and hearty tone—"The first poem you sent me, sir, I ought to have noticed—and I heartily forgive the second." They breakfasted together, and at parting his Lordship put a sealed paper into the poet's hand, saying, "Accept this trifle, sir, in the mean time, and rely on my embracing an early opportunity to serve you more substantially when I hear that you are in orders." Instead of a present of ten or twenty pounds as the *donee* expected, the paper contained a bank note for 100*l.*, a supply which relieved him from all present difficulties. The promise of a living, I make no doubt, would have been fulfilled, had not Crabbe soon after become chaplain to the Duke of Rutland, and received preferment from that liberal-minded nobleman.<sup>h</sup>

Thurlow was early in life honourably attached to an accomplished young lady, Miss Gooch—of a respectable family in Norfolk, "but she would not have him, for she was positively afraid of him."<sup>i</sup> He seems then to have forsworn matrimony.

<sup>g</sup> Boswell's Life of Johnson, vol. iv. p. 372.

<sup>h</sup> Life of Crabbe, 56, 101.

<sup>i</sup> Her own words in extreme old age. She

was married to Dr. D'Urban, a physician at Shottisham, the father of the venerable Sir Benjamin D'Urban. There was a relation

It is with great reluctance that I proceed; but I should give a very imperfect sketch of the individual and of the manners of the age, if I were to try to conceal that of which he himself was not ashamed, and which in his lifetime was known to all the world without occasioning much censure. Not only while he was at the bar, but after he became Lord Chancellor, he lived openly with a mistress, and had a family by her, whom he recognised, and, without any disguise, brought out in society as if they had been his legitimate children.—In like manner, as when I touched upon the irregularities of Cardinal Wolsey, I must remind the reader that every man is charitably to be judged by the standard of morality which prevailed in the age in which he lived.<sup>k</sup> Although Mrs. Hervey is sometimes satirically named in the “*Rolliad*” and other contemporary publications, her *liaison* with the Lord Chancellor seems to have caused little scandal. In spite of it he was a prime favourite, not only with George III. but with Queen Charlotte, both supposed to be very strict in their notions of chastity; and his house was not only frequented by his brother the bishop, but by ecclesiastics of all degrees, who celebrated the orthodoxy of the head of the law—his love of the Established Church, and his hatred of Dissenters.<sup>m</sup> It should likewise be stated in mitigation, that he was an affectionate parent, and took great pains with the education and breeding of his offspring. A son of his is said to have died at Cambridge when about to reach the highest honours of the university. His three daughters accompanied him in all the tours he made after his retirement from office,

ship between the Gooches and the Thurlows, —and their intercourse being renewed, old Mrs. Gooch used to call Edward Thurlow “child,” while he called her “mother.” She often related that Thurlow, when Attorney-General, having rode over to Shotisham to visit them, as he was taking leave, and mounting his horse, she said to him, “Well, child, I shall live to see you Lord Chancellor.” His answer was, “I hope so, mother.”

<sup>k</sup> Shortly before this, the Duke of Grafton, when Prime Minister, lived openly with Nancy Parsons, and escorted her to the opera in the presence of the Queen. What should we say of such an outrage on decency in the reign of Victoria?

<sup>m</sup> When I first knew the profession, it would not have been endured that any one in a judicial situation should have had such a

domestic establishment as Thurlow's, but a majority of the Judges had married their mistresses. The understanding then was, that a man elevated to the bench, if he had a mistress, must either marry her or put her away. For many years there has been no necessity for such an alternative.—The improvement in public morals, at the conclusion of the 18th century, may be mainly ascribed to George III. and his Queen, who—though, being unable to lay down any violent rule, or to bring about any sudden change, they were obliged to wink at the irregularities of the Lord Chancellor—not only by their bright example, but by their well-directed efforts, greatly discouraged the profligacy which was introduced at the Restoration, and which continued, with little abatement till their time.



and were in good society. Craddock relates that "one evening the Miss Thurlows being at a Hampstead assembly, in returning were in some danger from a riot at the door, and that they were rescued by a young officer who handed them to their carriage. In consequence the Lord Chancellor calling upon him next morning to thank him, and finding him at breakfast, offered to partake of it."<sup>a</sup>—Two of them were well married. The third made a love match against his will, and though he was reconciled to her, he never would consent to see her husband.

It has been said that Thurlow was a sceptic in religion: but I do not believe that there is any foundation for this assertion, beyond the laxity of his practice, and an occasional irreverence in his expressions on religious subjects,—which, however censurable, were not inconsistent with a continuing belief in the divine truths he had been taught by his pious parents. A letter from him to a gentleman who had obtained a prize for a theological essay, and to whom he gave a living, displays great depth of thinking, and may be reconciled to orthodoxy:—

"Oct. 13, 1785.

"Sir,

"I return you many thanks for your Essay, which is well composed, notwithstanding the extent, difficulty, and delicacy of the subject. The mode of future existence is not delineated to the human mind; although the object is presented to their hope, and even recommended to their imagination. Upon this, the humbler, perhaps the safest, reflection seems to be, that human sense is capable of no more, while perfect Faith is recommended. Is it not dangerous to insinuate, that sensible conviction might lessen the importance of worldly concerns too much? (p. 23.)

"Perhaps, also, the speculation is not free from danger, when improved disquisition, enriched imagination, and livelier affection are distinctly assumed, as the attainments of a state, which is to be so much changed, that it cannot be, or at least is not, revealed to the human sense. (p. 12, 15, 17.)

"Perhaps more is put upon the immateriality of the soul than the negative of a thing so unknown as matter, is worth. (p. 7.)

"The observation at the head of the next page seems to dispose of the question more solidly and piously. When the Philosopher despises a Heaven on the other side of the blue mountains, in which the company of a faithful dog makes a principal article of enjoyment, is he

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<sup>a</sup> "An anecdote introduced to prove that man, as well as an affectionate parent."—Lord Thurlow could be a courteous noble—*Crad.* i. 75.

sure that his visions are more wise, in proportion as they are less sensible?

"Perhaps the certainty that God is good affords a surer hope, and not less distinct.

"Yours, &c.

"THURLOW."

There seems to have been, however, a prevalent opinion among his contemporaries, that he was lax in his religious observances. Of this, Burke took rather an unfair advantage during Hastings's trial. Commenting upon the arrest of a Rajah at the hour of his devotions, he said—"It has been alleged in extenuation of the disgrace, that the Rajah was not a Brahmin. Suppose the Lord Chancellor should be found at his devotions (*a laugh*),—surely we may suppose the keeper of the King's conscience so employed (*renewed laughter*),—and suppose that, while so employed, he should be violently interrupted and carried off to prison, would it remove or lessen the indignity that he was not a Bishop? No! the Lord Chancellor would think of the prayers he had lost, and his feelings would be equally acute as if he wore lawn sleeves in addition to the robes of his office, and his full-bottom wig." The reporter adds, "None were grave at this sally save the Chancellor himself, who looked like a statue of JUPITER TONANS, and cared as little for exercises of piety."

Under ostentatiously rough manners, I am inclined to believe that he preserved great kindness of disposition; and there can be no doubt that, if at last a little hardened from being long hackneyed in the ways of the world, he was naturally tender-hearted. When still a young man he lost his favourite sister, to whom he had been most affectionately attached. I have great pleasure in laying before the reader a most feeling and beautiful letter, written by him to the physician who had attended her, and who had announced to him her dissolution after a long and painful illness.

"Dear Doctor Manning,

"I return you many thanks for your letter, which I can almost bring myself to call agreeable. The two last letters I received from my brother, convinced me that she was not to be saved by nature or art; and it quite harrowed me to reflect on the pain she endured. I suppose the frailty of all human things makes it a common accident: but I have brought myself to think it my own singular ill fortune to be disappointed in every thing I have ever set my heart upon. In general, it is my point to withstand any extraordinary affection for any article in life, but I forgot myself in this instance. My sister was singularly

agreeable to me, and I was equally assiduous in courting her friendship and cultivating her affection. The wretched end of it is, that I never was so unhappy before.

"But it is foolish to trouble you with any more of this: I cannot omit, however, expressing my sensibility of your tenderness and attention to her, and my perfect satisfaction in your skill and care; a mighty dull and gloomy satisfaction, but it is all the ablest and kindest physicians can expect in so melancholy an hour.

"I am, dear Sir, with great respect,

"Your most obliged

"and obedient Servant,

"E. THURLOW.

"Inner Temple, Friday."<sup>o</sup>

Lord Thurlow was very kind to his brothers. For one of them he obtained successively the great living of Stanhope, the Mastership of the Temple, the Deanery of Rochester, the Deanery of St. Paul's, the Bishopric of Lincoln, and the Bishopric of Durham. On a son of this brother he conferred a sinecure in the Court of Chancery, for which a compensation is now received of 9000*l.* a year. He provided, likewise, very amply for his other kinsmen. What more proved the goodness of his disposition was, that, notwithstanding occasional gusts of passion, which they were a little afraid of, he continued to live with them all on terms of great familiarity. Soon after he was made Lord Chancellor, he addressed his clerical brother in the following terms:—"Tom, there is to be a drawing-room on Thursday, when I am obliged to attend; and as I have purchased Lord Bathurst's coach, but have no leisure to give orders about the necessary alterations, do you see and get all ready for me." The Bishop forgot to get the arms altered, and the Earl's coronet reduced to a Baron's. Afraid of a storm, he resorted to the expedient of ordering the door to be opened as soon as the carriage stopped at the house, and held open till the Lord Chancellor was seated, who, having examined the interior, stretched out his hand, and most kindly exclaimed, "Brother, the whole is finished entirely to my satisfaction, and I thank you."<sup>p</sup> The same expedient was resorted to again at his return from St. James's, and by the next levee-day the carriage was altered according to the rules of heraldry.

I have already had occasion to refer more than once to Thurlow's personal appearance, and particularly to his dark

<sup>o</sup> Written about 1768.

<sup>p</sup> Cr. i. 72.

complexion and bushy eyebrows. O'Keefe, the famous farce writer, has left us a little portrait of him shortly before he was removed from office, at a moment when he must have been suffering from bodily pain:—"I saw Lord Thurlow in court: he was thin, and seemed not well in health; he leaned forward with his elbows on his knees, which were spread wide, and his hands clutched in each other. He had on a large three-cocked hat. His voice was good, and he spoke in the usual judge style, easy and familiar." But, generally speaking, although pretending to despise the opinion of others, he was acting a part, and his aspect was more solemn and imposing than almost any other person's in public life—which induced Mr. Fox to say, "it proved him dishonest, since no man could *be* so wise as Thurlow *looked*."

His manner made an awful impression on all who beheld him; and I have seen this successfully mimicked by the late Lord Holland, so as not only to create a belief of profound wisdom, but to inspire some apprehension into the company present of being committed to the Fleet, or of being taken into custody by the Gentleman Usher of the Black Rod. Yet, in private life, he could, on rare occasions, lay aside his terrors,—affecting mildness and politeness. Once when at Bath, he went to the pump-room and sat there booted and spurred. Being informed, by the master of the ceremonies, that it was against rule to appear there with spurs, he said, "The rules of Bath must not be disputed," and not only ordered his spurs immediately to be taken off, but that an apology should be made in his name to the company.<sup>a</sup> He was remarkably affable and kind to the young. A friend of mine, who knew him when he was living in retirement at Dulwich, says, "A morning call at his house, especially about luncheon time, was a great treat to a schoolboy; and I well remember the *ore-rotundo* 'Give the lad more pie!' addressed to Kitty Thurlow (afterwards Lady Saltoun), who had helped one of us as she would have helped herself."

"Many stories of Thurlow's rudeness," says his friend Craddock, "have been in circulation; but it should be fairly stated that he was ever more cautious of speaking offensively amongst inferiors than amongst the great, where he sometimes, indeed, seemed to take a peculiar pleasure in giving proofs of his excessive vulgarity. A single instance of this singular humour will be sufficient. On his return from Scarborough,

<sup>a</sup> Cr. I. 7a.

he made visits to some of those splendid mansions with which the county of York so greatly abounds; and a friend of mine had the honour to meet him at one of them, then full of very high company. Whilst walking in the garden, and they were all admiring the elegancies which surrounded them, the noble proprietor, being near the hot-house, turned to the Lord Chancellor, and politely asked him whether he would not walk in and partake of some grapes. 'Grapes!' said Thurlow, 'did I not tell you just now I had got the gripes?' The strangers in the company were all petrified with astonishment."

A gentleman of huge bulk and bodily strength, but of slender mental endowments, although a Commissioner of Customs, having waited on Lord Chancellor Thurlow to explain a memorial he had composed to prepare him to defend a Government bill in the House of Lords, received this compliment from him: "You may be fit, sir, to *draw* a broad-wheeled waggon, but you are wholly unfit to *draw* a memorial."

A body of Presbyterians made an application to him to assist in repealing certain statutes which disqualified them from holding civil offices. He received the deputation with great civility, and, having heard them out, said, "Gentlemen, I'll be perfectly frank with you. Gentlemen, I am against you, and for the Established Church, by G—. Not that I like the Established Church a bit better than any other church, but because it is established. And whenever you can get your d——d religion established, I'll be for that too. Good morning to you." They retired, smiling, and probably less dissatisfied than if he had tried to reason them into a conviction of the justice of the Test and Corporation Acts.

Although he by no means despised the smiles of royalty, and "*principibus placuisse viris*" was not a low object of ambition with him, he was a courtier in his own peculiar fashion, and sometimes he used a freedom of speech which from any other man would have been offensive. Lord Eldon used to relate the following anecdote:—"Once, when the mind of George III. was not supposed to be very strong, I took down to Kew some acts for his assent, and I placed on a paper the titles and the effect of them. The King, perhaps suspicious that my coming down might be to judge of his

\* As related by Dr. Rees, the compiler of "The Cyclopaedia," who was present

competence for public business, as I was reading over the titles of the different acts, interrupted me, and said, 'You are not acting correctly; you should do one of two things, either bring me down the acts for my perusal, or say as Thurlow once said to me on a like occasion: having read several, he stopped and said, It was all damned nonsense trying to make me understand them, and that I had better consent to them at once.' "

On the occasion of a public procession, the Prince, who had taken offence at something Thurlow had said or done, rudely stepped in before the Chancellor. Thurlow observed, "Sir, you have done quite right: I represent your royal Father: Majesty walks last. Proceed, Sir."

At Brighthelmstone the Prince of Wales, living with a gay set of frivolous young men who displeased the ex-Chancellor much, asked him frequently to dinner, but always met with an excuse. At last, walking in front of the Pavilion in company with them, he met Lord Thurlow, and pressed him much to dine with him, saying, "You must positively name a day." Lord Thurlow, looking at the party who were with the Prince, said, "If I must name a day or time, it shall be when your Royal Highness keeps better company."

On another occasion Lord Thurlow had voluntarily given the Prince some advice, which was far from being palatable. His Royal Highness was so angry, that he sent to him to say that in future Carlton House gates would be shut against him. Lord Thurlow answered,—“I am not surprised; proffered favours always stink.” The Prince, conscious of the ungenerous return he had made, acknowledged his error, and they again became friends.

The Prince once sent Sir Thomas Tyrwhitt to the ex-Chancellor, to ask his opinion respecting some difference in the royal family. "You may tell your master," said Thurlow, "I shall not give him my opinion." "My Lord," said Sir Thomas, "I cannot take that message to His Royal Highness." "Well, then," said Lord Thurlow, "you may tell him from me, that if he can point out one single instance in which he has followed my advice, I will give him my opinion on this matter."

Traditionary anecdotes, to show the violence of his temper, particularly on the marriage of his favourite daughter without his consent, I pass over as not sufficiently authenti-

cated; but it is certain that, by reason of a quarrel he had with Holland, the architect, who had contracted to build a grand new house for him at Dulwich, he would never enter it, and he continued to live in a small inconvenient lodge close by."

His chateau remaining untenanted, though furnished,—as he was one day coming out of the Queen's drawing-room, a lady stopped him, and asked "when he was going into his new house?" "Madam," said he, "the Queen has just asked that impudent question; and as I would not tell her, I will not tell you."

In Thurlow's time the habit of profane swearing was unhappily so common, that Bishop Horsley and other right reverend prelates are said not to have been entirely exempt from it. But Thurlow indulged in it to a degree that admits of no excuse. Walking with the Prince of Wales, on the Steyne at Brighton, they met Horsley, and, entering into conversation with him, the Bishop said he was to preach a charity sermon next Sunday, and hoped he might have the honour of seeing his Royal Highness among his congregation. The Prince graciously intimated his intention to be present. Then turning to the ex-Chancellor, the Bishop said, "I hope I shall also see your Lordship there." The answer was, "I'll be d——d if you do: I hear you talk nonsense enough in the House of Lords; but there I can and do contradict you,—and I'll be d——d if I go to hear you where I can't."\* —I have been told by an old gentleman, who was standing behind the woolsack at the time, that Sir Ilay Campbell, then Lord Advocate, arguing a Scotch appeal at the bar in a very tedious manner, said, "I will noo, my Lords, proceed to my seevent pownt." "I'll be d——d if you do," cried Thurlow, so as to be heard by all present; "this House is adjourned till Monday next," and off he scampered.—Sir James Mansfield, Lord Chief Justice of the Common Pleas, used to relate that while he and several other legal characters were dining with Lord Chancellor Thurlow, his lordship happening to swear at his Swiss valet when retiring from the room, the man returned, just put his head in, and exclaimed, "I

\* His family accounted for his whimsicalities in his later years by the shock he sustained from the flight of this daughter—to whom he had been so much attached, that he made himself master of the principles of 'horongh-bass that he might superintend her musical practice.

† An action brought against him by Holland came on for trial before Lord Kenyon, who, for the dignity of the Chancellor, got it referred to arbitration.

\* This anecdote was often told with great glee by the Bishop himself.

von't be d——d for you, Milor," which caused the noble host and all his guests to burst out into a roar of laughter. From another valet he received a still more cutting retort. Having scolded this meek man for some time without receiving any answer, he concluded by saying, "I wish you were in hell." The terrified valet at last exclaimed, "I wish I was, my Lord! I wish I was!"—But the happiest retort he ever received conveyed to him a salutary hint of the ultimate consequences of his habit of swearing. He was one morning put into a great rage by finding that a cartload of paving stones had been shot before his door for the purpose of repairing the street. Observing an Irish paviour near the heap, he addressed him in a furious tone as the culprit, and ordered him to remove them. *Irish paviour*: "Where shall I take them to, please your honour?" *Lord Thurlow*: "To hell, and be d——d to you!" *Irish paviour*: "If I were to take them to t'other place, your honour, don't you think they might be more out of your honour's way?"—Once he was completely beaten by his own weapon. He thus began an objurgation to Mr. Quarme, the Deputy Usher of the Black Rod, who I very well remember was esteemed a remarkably meek man: "God d——n you, Mr. Quarme, what do you ——" Mr. Quarme, interrupting, exclaimed, "God d——n you, Mr. Quarme! God d——n you, Mr. Quarme!! God d——n you, my Lord!!" This unexpected outbreak was followed by a profound silence; and Thurlow, feeling some respect for one by whom he had been outsworn, behaved civilly to him ever afterwards.

Sir Thomas Davenport, a great *nisi prius* leader, had been intimate with Thurlow, and long flattered himself with the hopes of succeeding to some valuable appointment in the law, but, several good things passing by, he lost his patience and temper along with them. At last he addressed this laconic application to his patron:—"THE CHIEF JUSTICESHIP OF CHESTER IS VACANT; AM I TO HAVE IT?" and received the following laconic answer:—"No! BY GOD! KENYON SHALL HAVE IT!"

Having once got into a dispute with a Bishop respecting a living of which the Great Seal had the alternate presentation,

Y I am afraid that profane swearing was then much practised by men of all degrees in Westminster Hall. I remember when Sir James Mansfield was Chief Justice of the Common Pleas, and the unruly members of the colf who practised before him led him a most

wretched life, it was said that one evening, having fallen asleep on a sofa in a lady's drawing-room, he was heard to call out several times in his dream, "G— d—— the Serjeants!"



the Bishop's secretary called upon him, and said, "My Lord of — sends his compliments to your Lordship, and believes that the next turn to present to — belongs to his Lordship."

*Chancellor*: "Give my compliments to his Lordship, and tell him that I will see him d——d first before he shall present."

*Secretary*: "This, my Lord, is a very unpleasant message to deliver to a bishop." *Chancellor*: "You are right, it is so;

therefore tell the Bishop that I will be d——d first before he shall present."

His blustering manner was sometimes assumed, to conceal the uneasiness which preyed upon his mind. His brother, the Bishop, pressing him to give a living to a very poor clergyman with a very numerous family, he said "No." Then followed this dialogue:—*Bishop*: "To whom do you intend to give it?"

*Chancellor*: "I believe I shall give it to the fellow after all."

*Bishop*: "In that case, why not tell him so?" *Chancellor*:

"Why the devil should I?" *Bishop*: "Because it would make him so happy to know that he is to have bread for his children." *Chancellor*: "D——n him! The poor parson with his starved children is already much happier than I am."

With all his faults, it must ever be remembered to his honour, that, by his own abilities alone, without flattery of the great, or mean compliances with the humours of others, he raised himself from obscurity to the highest dignity in the State;—that no one can ascribe his rise to reputed mediocrity, which is sometimes more acceptable than genius;—and that for a period of forty years he not only preserved an ascendancy among distinguished lawyers, statesmen, and orators, but that he was regarded with respect and esteem by eminent poets, moralists, and divines.

I shall conclude this memoir with sketches of him by some of his contemporaries, which may better enable the reader justly to estimate his merits than any observations of mine. The first is from a volume published in 1777, when he was Attorney-General, entitled "Public Characters," in which it is remarkable that his name is spelt "Thurloe," like that of Cromwell's secretary:—"His voice is harsh, his manner uncouth, his assertions made generally without any great regard to the unities of time, place, or probability. His arguments frequently wild, desultory, and incoherent. His deductions, when closely pressed, illogical; and his attacks on his adversaries, and their friends, coarse, vulgar, and illiberal, though generally humorous, shrewd, and pointedly severe."

"The Chancellor Thurlow," says Bishop Watson, "was an able and upright Judge; but as the Speaker of the House of Lords he was domineering and insincere. It was said of him in the Cabinet, he opposed every thing, proposed nothing, and was ready to support any thing. I remember Lord Camden's saying to me one night, when the Chancellor was speaking contrary, as I thought, to his own conviction, 'There now, I could not do that: he is supporting what he does not believe a word of.'"<sup>2</sup> "Few," says Colton, "have combined more talent with more decision than Lord Thurlow. Nature seems to have given him a head of crystal and nerves of brass."<sup>3</sup>

Sir Nathaniel Wraxall, describing the state of parties in the year 1781, says, "Lord Thurlow, who at this time had held the Great Seal between two and three years, though in point of age the youngest member of the Cabinet, enjoyed in many respects greater consideration than almost any other individual composing it.—Lord North had derived the greatest assistance from his eloquence and ability. His removal to the House of Peers would have left an awful blank on the Treasury bench in the midst of the American war, if his place had not, during the two succeeding years, been ably, perhaps fully, supplied by Wedderburn. As Speaker of the Upper House, Lord Thurlow fulfilled all the expectations previously entertained of him. His very person, figure, voice, and manner, were formed to lend dignity to the woolsack. Of a dark complexion, and harsh but regular features, with a severe and commanding demeanour, which might be sometimes denominated stern, he impressed his auditors with awe before he opened his lips. Energy, acuteness, and prodigious powers of argument, characterised him in debate. His comprehensive mind enabled him to embrace the question under discussion, whatever it might be, in all its bearings and relations. Nor, if we except Lord Camden, who was already far advanced in life, did the Opposition possess any legal talents in the House of Peers that could justly be put in competition with those of Lord Thurlow. These admirable points were, nevertheless, by no means unaccompanied by corresponding defects. As Lord Chancellor, he was accused of procrastination in suffering the causes brought before him in his court to accumulate without end. Perhaps this charge, so frequently made against those who have held the Great Seal, was not more true as applied to him, than of others who succeeded him in his office. But even in par-

<sup>2</sup> Life of Watson, 221.

<sup>3</sup> "Lacon," i. 45.

liament his temper, which was morose, sullen, and untractable, sometimes mastering his reason, prevented him from always exerting the faculties with which Nature had endowed him, or at least clouded and obscured their effect. In the Cabinet, these defects of character, which rendered him often impracticable, were not to be surmounted by any efforts or remonstrances. It can hardly be believed, that at ministerial dinners, where, after the cloth was removed, measures of state were often discussed or agitated, Lord Thurlow would frequently refuse to take any part. He has even more than once left his colleagues to deliberate, whilst he sullenly stretched himself along the chairs, and fell, or appeared to fall, fast asleep. If I had not received this fact from an eye-witness, and a member of the Cabinet, I should not indeed venture to report so improbable a circumstance. Notwithstanding the ruggedness and asperity which he displayed,—qualities that procured him the nickname of *the tiger*,—no man could at times appear more pleasing, affable, and communicative in conversation. I have once or twice seen him on such occasions, which were more highly valued because they were rare or unexpected. Possessed of faculties so transcendent, however mingled with human weakness and infirmity, he must always be considered as one of the most eminent individuals who sat in the councils of George III. at any period of his reign.”<sup>b</sup>

In 1796, Bishop Horsley thus dedicated to Thurlow his “Prosodies of the Greek and Latin Language.” “Although I wish at present to be concealed, I cannot persuade myself to send this Tract abroad without an acknowledgment, which perhaps may betray me, of how much my mind has been informed, and my own opinions upon this subject have been confirmed, by conversations which many things in this Essay will bring to your recollection. Were I to form a wish for my country, it should be that your Lordship might again be called to take part in her councils, where you would display that wisdom, firmness of principle, and integrity, with which you so long adorned one of the highest public stations. A better wish, perhaps, for you may be, that you may enjoy many years of learned leisure.”

Next comes the portrait of Thurlow by Dr. Parr, which, although the features be exaggerated almost to caricature, certainly presents a very striking likeness:—“Minas pos-

sumus contemnere vocemque fulmineam Thrasonici istius oratoris τοῦ τὰς ὀφρῶς κυανέας ἐπηκότος, cujus vultum, uti Noviorum istius minoris, ferre posse se negat quadruplatorum genus omne et subscriptorum. Quid enim? truculentus semper incedit, teterque, et terribilis aspectu. De supercilio autem isto quid dicendum est? annon reipublicæ illud quasi pignus quoddam videtur? annon senatus illo, tanquam Atlante cœlum, innititur?—Profecto non desunt qui Novium existiment in ‘summa feritate esse versutissimum, promptumque ingenio ultra Barbarum.’ Quod si demseris illi aut σφοδρότητα quanto in Bruto fuit, aut πικρότητα vere Menippeam, aut προσώπον σκυθρότητα propriam et suam, facile ejus vel prudentiæ vel fidei juris nodos legumque ænigmata ad solvendum permiseris.—Fervido quodam et petulanti genere dicendi utitur, eodemque, nec valde nitenti, nec plane horrido. Solutos irridentium cachinnos ita commovet, ut lepores ejus, scurriles et prorsus veteratorios diceres. Omnia loquitur verborum sane bonorum cursu quodam incitatio, itemque voce, qua ne subsellia quidem ipsa desiderant pleniorum et grandiorum. In adversariis autem lacerandis ita causidicorum figuras jaculatur, ita callida et militiosa juris interpretatione utitur, ita furere et bacchari solet, ut sæpe mirere tam alias res agere optimates, ut sit pene insano inter disertos locus.—Fuit ei, perinde atque aliis, fortuna pro virtutibus. Didicit autem a Muciano, satis clarum esse apud timentem, quisquis timeatur. Corpore ipse ingens, animi immodicus, verbis magnificus, et specie inanum magis quam sapientia validus, studia ad se Optimatum illexit, eamque adeptus est auctoritatem, quæ homini novo pro facundia esse posset. Scilicet, quæ bonis Titio, Seioque turpissima forent, Novium nostrum maxime decent, siquidem e subselliis elapsus de Tribunali nunc pronuntiet, et ex præcone actionum factus sit institor eloquentiæ senatoriæ. Quam igitur in civitate gratiam dicendi facultate Q. Varius consecutus est, vastus homo atque fœdus, eandem Novius intelligit, illa ipsa facultate, quamcunque habet, se esse in Senatu consecutum—

‘Eltum, confidens, catus :

Cum faciem videas, videtur esse quantivis prett :

Tristis severitas inest in vultu, atque in verbis fides.’ ” c

After the effort of perusing this somewhat pedantic production, the reader may be relieved by a few characteristic

notices of our hero from the pen of *Dr. Wolcot*, a lively though scurrilous poet, who, under the title of *PETER PINDAR*, amused the latter end of the eighteenth century: in his Ode "to the Royal Academicians," on portrait painting, he gives them this caution:

"Copy not Nature's form too closely  
Whene'er she treats your *sitter* grossly.  
As, for example, let us now suppose  
Thurlow's black scowl and Pepper Arden's nose."

In another satirical ode, he thus refers to Thurlow's rough manners and habit of swearing:

"How pithy 'twas in Pitt, what great good sense,  
Not to give Majesty the least offence!  
Whereas the Chancellor, had he been there,  
Whose tutor, one would say, had been a bear;  
Thinking a Briton to no forms confin'd,  
But born with privilege to speak his mind,  
Had answer'd with a thundering tongue,  
'I think your Majesty d———n wrong.'"

And he is made to go on to swear still more profanely.

In enumerating those who assisted in the public Thanks giving at St. Paul's, on the King's recovery, this satirist describes—

"A great Law Chief, whom God nor demon scares,  
Compell'd to kneel and pray, who *swore* his prayers;  
The devil behind him pleas'd and grinning;  
Patting the angry lawyer on the shoulder,  
Declaring aught was never *bolder*,  
Admiring such a *novel* mode of sinning."

By reason of Peter Pindar's violent attacks on Thurlow and other peers, there was a proposal to bring him to the bar of the House for a breach of privilege—to which Peter in his "Ode to the Peers" refers:—

"Yes! yes! I hear that you have watch'd my note,  
And wish'd to squeeze my tuneful throat;  
When Thurlow your designs most wisely scouted,  
Swearing the poet should not yet be knouted."

The ex-Chancellor's intimacy with the Prince, attracting the attention of the public, was celebrated in an Epistle from Peter Pindar, thus beginning—

"Thurlow now is the Carlton House Mentor :  
 You know him, Nic ; bony and big,  
 With a voice like the voice of a Stentor,  
 His old phiz in a buahel of wig.  
 All the pages, and footmen, and maids,  
 As his *Wisdom* march'd solemnly in,  
 (The impudent varlets and jades !)  
 Gather'd round him with wonder and grin."

In conclusion there is this softening stanza :—

"Yet this in his praise I will say,  
 That whether he's sober or mellow,  
 Though as blunt as a bear in his way,  
 True Genius *admires* the old fellow."

I have now much pleasure in giving a sketch of him by a surviving kinsman, who knew him well, and was tenderly attached to him:—"His countenance was that of a man of the strongest sense, and his eye most penetrating and commanding. His stature was lofty and full of dignity, and his manners and address highly polished. He could assume the sternest character if necessary, or the sweetest smile I ever beheld. This stern exterior was, I have often thought, put on to cover the most kind and feeling heart, and his real nature was but little known but to those who had the happiness of living in his society. I remember hearing Lord Thurlow read from Shakspeare's play of the Merchant of Venice that beautiful scene of the judgment of Portia. 'Then must the Jew be merciful.' *Shylock*: 'On what compulsion must I? tell me that.' *Portia*: 'The quality of mercy is not strained, it droppeth as the gentle dew from Heaven upon the place beneath,' &c.; and perceiving a slight tremulousness in his voice, I looked up and saw the tears in his eyes.—When Lord Thurlow had a severe fit of the gout, he used to be wheeled in a Merlin's chair from his sitting-room to his bedroom at an early hour; it was in the summer season, and when the proper minute came, his valet Buissy, without asking any questions, told his master it was time to go to bed, and began to wheel the chair with the ex-Chancellor in it towards the bedroom. 'Let me alone,' said the ex-Chancellor. 'My Lord, it is time to go to bed.' 'I won't go yet, come again.' 'No, my Lord, it is time for your Lordship to go to bed, and you must go.' 'You be d—d, I will not go.' Away went the ex-Chancellor, threatening and swearing at the man, which I could hear like deep thunder for some

time. The ex-Chancellor had succumbed, knowing that his good only was considered by his faithful domestic."

I shall conclude with a metrical effusion from the Rolliad, professing to be composed by the Lord Chancellor Thurlow himself, to show his qualification for the office of Poet Laureat, then vacant. I need not remind the reader that, with some just satire upon his swearing propensity, and other failings imputable to him, this *jeu d'esprit* shows the malice of the discomfited Whigs, who were driven to console themselves in almost hopeless opposition by personal attacks on their opponents—not sparing royalty itself:

### "IRREGULAR ODE,

"By EDWARD LORD THURLOW,

"*Lord High Chancellor of Great Britain.*

#### I.

"Damnation seize ye all!  
Who puff, who thrum, who bawl and squall!  
Fir'd with ambitious hopes, in vain,  
'The wreath, that blooms for other brows, to gain.  
Is Thurlow yet so little known?—  
By — I swore, while George shall reign,  
The Seals, in spite of changes, to retain,  
Nor quit the woollack till he quita the Throne!  
And now, the hay for life to wear,  
Once more with mightier oaths, by — I swear!  
Bend my black brows that keep the Peers in awe,  
Shake my full-bottom wig, and give the nod of law.

#### II.

"What though more sluggish than a toad,  
Squat in the bottom of a well,  
I, too, my gracious Sov'reign's worth to tell,  
Will rouse my torpid genius to an Ode!  
The toad a jewel in his head contains—  
Prove we the rich production of my brains!  
Nor will I court, with humble plea,  
Th' Aonian Maids to inspire my wit:  
One mortal girl is worth the Nine to me;  
The prudea of Pindus I resign to Pitt.  
His be the classic art, which I despise;—  
Thurlow on Nature, and himself, relies.

#### III.

"'Tis mine to keep the conscience of the King:  
To me each secret of his heart is shown:  
Who then, like me, shall hope to sing  
Virtues, to all but me unknown?  
Say who, like me, shall win belief  
To tales of his paternal grief,  
When civil rage with slaughter dy'd  
The plains beyond th' Atlantic tide?

Who can, like me, his joy attest,  
 Though little joy his looks confess,  
 When Peace, at Conway's call restor'd,  
 Bade kindred nations sheathe the sword?  
 How pleas'd he gave his people's wishes way,  
 And turn'd out North, when North refus'd to stay?  
 How in their sorrows sharing too, unseen,  
 For Rockingham he mourn'd, at Windsor, with the Queen :

## IV.

" His bounty, too, be mine to praise,  
 Myself th' example of my lays,  
 A Teller in reversion I ;  
 And unimpair'd I vindicate my place,  
 The chosen subject of peculiar grace,  
 Hallow'd from hands of Burke's economy :  
 For so his royal word my Sovereign gave ;  
 And sacred here I found that word alone,  
 When not his Grandsire's *patent*, and his own,  
 To Cardiff, and to Sondes, their posts could save.  
 Nor should his chastity be here unsung,  
 That chastity, above his glory dear ;  
 But Hervey, frowning, pulls my ear ;  
 Such praise, she swears, were satire from my tongue.

## V.

" Fir'd at her voice, I grow profane,  
 A louder yet, and yet a louder strain !  
 To Thurlow's lyra more daring notes belong.  
 Now tremble every rebel soul,  
 While on the foes of George I roll  
 The deep-ton'd execrations of my song.  
 In vain my brother's piety, more meek,  
 Would preach my kindling fury to repose ;  
 Like Balaam's ass, were he inspir'd to speak,  
 'Twere vain ! resolv'd I go to curse my Prince's foes.

## VI.

" ' Begin ! begin ! ' fierce Hervey cries ;  
 ' See ! the Whigs, how they rise !  
 What petitions they present !  
 How *tease* and *torment* !  
 D—mn their bloods, d—mn their hearts, d—mn their eyes.  
 Behold yon sober band,  
 Each his notes in his hand ;  
 The witnesses they, whom I browbeat in vain ;  
 Unconfus'd they remain.  
 O ! d—mn their bloods again ;  
 Give the curse due  
 To the factious crew !

d = I originally wrote this line :

But Hervey, frowning, as she hears, &c.

It was altered as it now stands by my  
 d—mn'd Bishop of a brother, for the sake of

an allusion to Virgil :

———Cynthia's aureas  
 Vellit, et admonuit."



Lo! Wedgwood, too, waves his Pitt-pots<sup>e</sup> on high!

Lo! he points where the bottoms, yet dry,

The *visage immaculate* bear;

Be Wedgwood d—mn'd, and double d—mn'd his ware.

D—mn Fox, and d—mn North;

D—mn Portland's mild worth;

D—mn Devon the good,

Double d—mn all his name;

D—mn Fitzwilliam's blood,

Heir of Rockingham's fame;

D—mn Sheridan's wit,

The terror of Pitt;

D—mn Loughborough, my plague—would his bagpipe were split!

D—mn Derby's long scroll,

Fill'd with names to the brims;

D—mn his limbs, d—mn his soul,

D—mn his soul, d—mn his limbs!

With Stormont's curs'd dio,

Hark! Carlisle chimes in;

D—mn them; d—mn all the partners of their sin;

D—mn them, beyond what mortal tongue can tell;

Confound, sink, plunge them all to deepest, blackest Hell!"<sup>f</sup>

I have only further to state that Lord Chancellor Thurlow dying without legitimate issue, his first title of Baron Thurlow of Ashfield became extinct, and that his second of Baron Thurlow of Thurlow, in the county of Suffolk, under a limitation in the patent by which it was created, descended to his nephew, the eldest son of his brother the Bishop of Durham, the father of the present highly respected head of the family.<sup>g</sup>

I cannot conclude this Memoir without expressing deep regret that Thurlow himself had not dedicated a portion of his leisure to the task of writing an account of his own career, and of the times in which he lived. Considering the events which he had witnessed, the scenes in which he had personally mixed, the eminent men with whom he had been familiar, and his powers of observation and of description, what an interesting work he might have left to us! Born in the period of universal tranquillity which followed the Peace of Utrecht,—he could remember the civil war which rendered it for some time doubtful whether the nation was to continue under the constitutional rule of the House of Brunswick,—or the legitimist doctrine of hereditary right was to prevail by the restoration

<sup>e</sup> "I am told that a scoundrel of a potter, one Mr. Wedgwood, is making 10,000 vile utensils, with a figure of Mr. Pitt in the bottom; round the head is to be a motto,

We will spit  
On Mr. Pitt,

and other such d—mn'd rhymes, suited to the use of the different vessels."

<sup>f</sup> *Rolliad*, p. 321, 22nd edition.

<sup>g</sup> *Grandeur of the Law*, p. 142.

of the Stuarts. He could have told us the hopes and fears which prevailed on the advance of Prince Charles and his Highlanders to Derby, and the varying joy and consternation produced by the news of the victory at Culloden.—He might have contrasted the gloom in the public mind from the disappointments and disasters of the war terminated by the treaty of Aix-la-chapelle, with the popular exultation and enthusiasm arising from the capture of Quebec, and the other glories of the administration of Chatham.—Himself playing an important part soon after the commencement of the reign of George III., he might have explained to us the new policy of the Court, and made us better acquainted than we shall ever be with the short-lived administrations and factious movements which distracted the realm from the fall of Lord Bute to the premiership of Lord North.—Thence he could have laid bare to us the infatuated councils by which the empire was dismembered, and he might have disclosed his matured sentiments on the errors which were committed, and the line of policy which might have saved the country from the calamities by which it was nearly overwhelmed.—What an account he might have given us of his position in the Rockingham cabinet, and the diversion he had, surrounded with Whigs, in playing off one section of them against another, and preparing the return of Tory domination!—What an agreeable variety might have been presented to us when he was not only in opposition, but out of office, during the Coalition government—remaining still the secret adviser of the sovereign!—Then would have come the defeat of the Coalitionists,—with the mitigation of his triumph in finding himself under a boy statesman who professed a respect for public liberty, and was actually disposed to reform the law and the state.—Next would have appeared their mutual manoeuvres for “tripping up the heels” of each other.—But, oh! what “Confessions” might our autobiographer have made when he arrived at the Regency!—favouring us with the details of his double negotiations,—and informing us of the process whereby he had tears at his command at the sight or sound of royal suffering,—which is the true version of the story of his being detected by the disappearance of his hat,—and whether he heard from the woosack the prophecy uttered by Wilkes, sitting on the steps of the throne, as to the catastrophe which was to happen before he could be “forgotten.”—We should have known who communicated to him the astounding intelligence that he was dismissed; and we should

have seen his towering indignation when he found that the Master who he thought valued him so highly threw him, like a worthless weed, away.—His opinion of his brother Peers, both while he presided over them and when he became the lowest in rank among them, would have been particularly racy.—He would not have felt himself at liberty to publish to the world all he had observed of the Prince of Wales, and other members of the royal family; but, without indiscreet disclosures, he might have given us a view of the Court of England at the end of the eighteenth and beginning of the nineteenth century, which would have been highly instructive.—His private opinion of Hastings would have been curious,—and we should have been still more desirous to learn his real sentiments of the French Revolution, and his anticipations of the victor of Marengo, whom he lived to see elevated to the office of Chief Consul.—After all, the most valuable chapters would have been those wherein he introduced the great literary characters of his age, and narrated the different “rounds” in his intellectual combats with them, compelling Samuel Johnson to declare, that when he was to meet Thurlow he should wish to know a day or two before, that he might prepare for the encounter.—Indulging in a satirical vein, the homage paid to Mrs. Hervey, from the hope of benefiting by her supposed influence in the disposal of his legal and ecclesiastical patronage, might have afforded a topic still more fruitful.—I make no doubt, at the same time, that, if he had done justice to himself, he would have given us fresh reason to admire not only the vigour of his understanding, but the warmth of his affections; and some parts of his character and conduct which appear to us censurable or equivocal might have been cleared up and vindicated.

I am painfully conscious that this Memoir of him, notwithstanding the pains I have bestowed upon it, is very imperfect; and my only consolation is, that, feeling the awful responsibility cast upon me to guard public and private morality, and to do equal justice to the dead and to the living, I have sincerely striven to obey the precept which biographers ought to reverence as if it were found in holy writ: “Nothing extenuate, nor set down aught in malice.”—I am afraid I may still have to appeal to my own consciousness of impartiality, from the censures of friends and partisans, as I proceed with my undertaking, and when I shall have finished it with the Lives of Loughborough, Erskine, and Eldon.

## CHAPTER CLXII.

LIFE OF LORD LOUGHBOROUGH,<sup>a</sup> FROM HIS BIRTH TILL HIS CALL TO THE SCOTCH BAR.

It is with conflicting feelings that I enter upon the composition of this memoir. I am glad to hail a man of brilliant talents and varied accomplishments,—whose early history carries me back to the institutions, manners, and distinguished literary characters of my native country,—whose subsequent career was connected with the most striking vicissitudes of the eventful times in which he lived,—who, having been a Ruling Elder in the Kirk of Scotland, presided over the Lords Spiritual and Temporal in the Parliament of the United Kingdom,—who, without any Scotsman as an example, in struggling for this elevation showed that it was possible to conquer his native dialect, and the prejudices against his countrymen,—who reminded the Scottish youth that, if they could no longer hope to rival the fame of Belhaven or Fletcher of Saltoun in their own land, and if the decrees of their supreme Court were to be subjected to revision in the British House of Lords, loftier objects of ambition were presented to them than to their forefathers, and that they might enjoy the power, and eclipse the fame, of a Somers or a Hardwicke. But it is painful and humiliating to be obliged to recollect, and to confess, that this harbinger of good fortune—of whom we might have been so proud—was almost entirely devoid of public principle, and in all his movements seems to have been actuated exclusively by a view to his own aggrandisement,—careless about any improvement of the laws and constitution,—contented with the present possession of high office,—and reckless of his reputation with posterity :

——— "*Pudet hæc opprobria nobis  
Et dici potuisse et non potuisse refelli.*"

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<sup>a</sup> I prefer the historical title of "Lord Loughborough," to that of "Earl of Rosslyn," conferred upon him after his retirement,—as I have written the Lives of "Lord Ellesmere" and of "Lord Bacon," not of "Lord Viscount Brackley" and of "Lord Viscount St. Alban's."

Nevertheless, it is a consolation to me to think that I can relieve his memory from some portion of the obloquy which has been so unsparingly cast upon it. Surrendering him to severe censure as a politician, I must say that his delinquencies were considerably exaggerated by his contemporaries, and that he has been hardly treated by those who, since his decease, have attempted to delineate his character. It will be found that he not only uniformly conformed to the manners and rules supposed to distinguish a "gentleman," but that in his changes of party he was never guilty of private treachery, and never attempted to traduce those whom he had deserted;—that before he became a "Wilkite," Lord Bute had withdrawn from public life;—that he had formed no engagements with Lord Chatham or Lord Rockingham, of which they could complain when he joined Lord North;—that to this leader he remained true till the "Coalition" associated him with the Whigs;—and that when he left the liberal party to grasp the Great Seal, he was accompanied by Mr. Burke, the Duke of Portland, Lord Spencer, and Lord Fitzwilliam. For his conduct during "the reign of terror" which followed, I am afraid that the prevailing dread of revolutionary doctrines can form little palliation; but it will be refreshing to behold him, while still in possession of the Great Seal, the patron and protector of the author of the *VINDICIÆ GALLIÆ* against the narrow-minded persecution of the Benchers of Lincoln's Inn. Although his occupations after his fall were not very dignified, perhaps he was as harmlessly employed in trying at Windsor to cultivate the personal favour of the old King as if he had gone into hot opposition, or had coquetted with all parties in the House of Lords in the vain hope of recovering his office.<sup>b</sup>

Alexander Wedderburn,<sup>c</sup> afterwards Lord Loughborough, Earl of Rosslyn, and Lord Chancellor of Great Britain, was born in Edinburgh on the 13th of February, in the year 1733.<sup>d</sup>

<sup>b</sup> The Very Reverend Principal Lee of Edinburgh, who is a great genealogist as well as a profound scholar and divine, has proved to me that I am related to the subject of this memoir through the Halliburtons: but I cannot for this reason retract or alter anything I have said of my Cousin.—3rd Edition.

<sup>c</sup> The name was often spelt with a final *e*; but I make no doubt that this is the most accurate as well as the modern orthography, the place from which the family name is

taken being evidently the "burn," or brook, in which the "wethers" were washed—the Scotch mode of pronouncing it to this day being "Wetherburn."

<sup>d</sup> The following is an extract from the register of baptisms for that city:—

"Thursday, 15 February, 1733.

"To Mr. Peter Wedderburn, Advocate, and ——— Ogilvy, his Lady, a son, named Alexander.—W.\* Mr. John Drummond, younger

\* This means witnesses.

He was the eldest son of Peter Wedderburn, who was owner of a small estate in East Lothian, called Chesterhall, and who exercised the profession of an advocate in Edinburgh with the reputation of a good lawyer, though without making a large professional income. Indeed at this time the *pabulum* for the Scotch Bar was very scanty, so that an advocate was supposed to be in great practice who made 500*l.* sterling a-year; and the appointments of the "Senators of the College of Justice," or "Lords of Session," or "Judges of the Supreme Civil Court in Scotland," were not more considerable.\* The Wedderburns of Chesterhall, though not very wealthy, were of ancient descent, and had acted a prominent part. They were sprung from the Wedderburns of Wedderburn (or of that ilk), whose chief, Walter de Wedderburn, signed the Ragman Roll, and (I am ashamed to say), along with the chief of the Campbells, did homage to Edward I.,—a disgrace which they redeemed at Bannockburn.

In the year 1640, the Chancellor's ancestor, Mr. Alexander Wedderburn, of Chesterhall, was deputed by the Scots, along with the Earl of Dunfermline, and Sir Patrick Hepburn, to settle several important points with the English Parliament, shortly before the commencement of the civil war, and Sir Peter, his great-grandfather, was appointed by Charles II., first a commissioner of the royal revenue in Scotland, and afterwards a judge of the Court of Session.<sup>f</sup> Peter, his father, was likewise elevated to the Bench by George II. in July, 1756, under the title of Lord Chesterhall,<sup>g</sup> but had a very short enjoyment of his dignity, dying while his hopeful son was still practising at the Scottish Bar,—although dreaming of conquests in Westminster Hall.

I have picked up only one anecdote of young Alexander's infant years. This bears some resemblance to an occurrence

of Blair, and George Cheap, Esq. Born, 13th."

A valuable correspondent who has furnished me with these particulars adds, "All the Scotsmen who have ever held the Great Seal of England were natives of Edinburgh—Loughborough, Erskine, Brougham."

\* Till 1718, the fees of counsel were regulated by *Acts of Sederunt*, and, absurdly enough, not according to the importance of the cause, but the rank of the client. The highest fee allowed was two guineas. But annual retainers were common. By Act of

Sederunt, Jan. 15, 1704, all candidates for the Bar were forbidden to give entertainments on the occasion of their examinations under a penalty of 500 merks.—*Spottiswood's Forms of Process*.

<sup>f</sup> See Branston and Haig's "Historical Account of the Senators of the College of Justice," pp. 394, 521.

<sup>g</sup> My readers are probably aware that these titles are enjoyed merely by courtesy with the office of judge, without conferring any privileges of peerage.

which befell Lord Somers about the same age, and was supposed to foretell that Chancellor's future greatness, but the omen of the Scottish boy might have been interpreted as marking him out for outrage and disgrace—from which he was barely to escape with his life. When he was between three and four years old, having provoked a fierce turkey-cock by hallooing to him,—

“Bubbly Jock, your wife is a witch,  
And she is going to be burnt with a barrel of pitch,” h

the animal flew at the child, laid him flat on the ground, and seemed disposed to peck his eyes out, when he was saved by his nurse, who rushed into the rescue with a broom in her hand. A young lad, then acting in the family as assistant to the gardener, witnessed this scene. Many years afterwards, when passing through London, he was carried into the Court of Chancery to see Lord Loughborough in all his glory; but,—instead of being, as was expected, overwhelmed with admiration and awe,—after he had coolly contemplated the scene for some time, he exclaimed, “Weel! weel! he may be a great man noo, but I mind fine he was aince sair hadden doon by his mither's bubbly jock!”

This lady, celebrated for the care which she took in the rearing of her children as well as of her poultry, was born an Ogilvie, was descended from the Earls of Airlie, and was possessed of a taste for literature—rare among the females of that day. While the “laird” was absorbed in the business of the Parliament House at Edinburgh, or the farm at Chesterhall, she not only taught little Alec to read, but early inspired him with a love of books, so that he made wonderful progress in his studies, and displayed a precocity in his intellect as well as his acquirements which (as we shall see) excited the admiration of the literati of Scotland.

When about six years old he was sent to a school at Dalkeith, then kept by Mr. James Barclay, a very able and successful teacher. Here he met the famous Harry Dundas, afterwards Lord Viscount Melville, and a friendship was established between them, which, in spite of political differences, lasted for life. I have not ascertained whether they were in the same form, or whether either of them was “Dux,” or whether they were often subjected to the discipline of the “tawse,”

<sup>b</sup> I know not the meaning of this nursery rhyme: but I have myself, when a child, often heard it applied to turkey-cocks.  
<sup>i</sup> The Scottish *ferula*.

—in those times considered a necessary instrument for the inculcation of learning; but they are both said to have been remarkable boys, Dundas being distinguished for vigour and rough jocularity, and Wedderburn for dexterity and cunning.<sup>k</sup> While here, they acquired a considerable knowledge of the Greek language, which was, and is, shamefully neglected at most Scotch grammar schools.

In his fourteenth year Wedderburn was removed to the University of Edinburgh. The rebellion of 1745 had suspended the scholastic pursuits of this learned body, Prince Charles being for a considerable time in possession of the city, while the Castle stood out for King George, and the professors, according to their inclinations, actively assisting the opposite sides.<sup>m</sup> But after the battle of Culloden lectures were resumed, and the studies of the place proceeded as peaceably as if a highland claymore had never been brandished in the Canongate, nor a cannon-shot boomed from the battlements of the Castle. At this juncture young Wedderburn began his academical career. He was matriculated on the 18th of March, 1746.

Our young collegian had no taste for mathematics, which Maclaurin had at this time rendered rather popular in Scotland; nor did he even show much of the metaphysical turn for which his countrymen were beginning to be distinguished; but he devoted himself sedulously to classics, political science, and modern belles-lettres. The University could not yet boast of such instructors as Robertson, Blair, Munro, Black, and Dugald Stewart; but a general ardour for study prevailed, and the development of genius, which soon after displayed itself, was quietly advancing. I have not been able to obtain any particulars of young Wedderburn's demeanour in the "Humanity Class," with which he began, or in any of the others during the "philosophy curriculum." The degrees of B.A. and M.A. had then fallen into desuetude at Edinburgh, and there were no public examinations or honours to excite

<sup>k</sup> I have since been informed, that, although at the same school, they could not have been class-fellows, Dundas being several years younger than Wedderburn.—3rd Edition.

<sup>m</sup> Sacred as well as civil functions gave way to arms; and Dr. Robertson, the historian, then minister of Gladsmuir, carried a musket as a private in the Edinburgh Volunteers. Such a proceeding, sanctioned by

many precedents in the Old Testament, gives no offence to pious Presbyterians. I remember; when a French invasion was expected, my father, the Rev. Dr. George Campbell, one of the most venerated of the clergy of the Church of Scotland, while he preached with unction every Sabbath-day, on week-days was drilled in the ranks of the Cupar Volunteers.



emulation or to reward proficiency. But much more depends on the spirit of the time and of the place than on positive institutions; and there can be no doubt that Wedderburn's mental cultivation and attainments (setting aside a minute skill in "longs and shorts") were superior to those of most young men of his years, who had all the advantages of Westminster or Eton, of Oxford or Cambridge. He was even then in daily intercourse, and on a footing of perfect equality, with several of the most distinguished literary characters whom Scotland has ever produced. Dr. Robertson, deeply engaged in preparing his History of Scotland, delighted to see him at Gladsmuir, and foretold his future eminence. When a child he had been noticed by Adam Smith—who, filling the Moral Philosophy chair at Glasgow, frequently corresponded with him." But his greatest friend and admirer was David Hume, now Librarian to the Faculty of Advocates, and after the publication of his philosophical works, employed on his "Apology for the Stuarts." With such men to direct his studies, and to reward him by their praise, we can hardly wonder that our Edinburgh student worked with as much enthusiasm and effect as if he had had before his eyes the glory of a "double first," or of being at once "Senior Wrangler and Senior Medallist."

Being of a *famille de robe*, an order long well known in Scotland as in France (of whom the Dundases, Hopes, and Wedderburns were distinguished branches), he was early destined to the Bar, and in his seventeenth year he began his professional training—which did not consist, as in England, in eating a certain number of dinners in the hall of an Inn of Court, but required that he should attend courses of lectures on the Roman civil law and the different departments of municipal jurisprudence, and that he should undergo private and public examinations to test his progress and proficiency, before he was authorised to practise as an advocate, or quali-

<sup>a</sup> Dugald Stewart, in his Life of Adam Smith, says: "In the year 1748 he fixed his residence in Edinburgh; and during that and the following years read lectures on Rhetoric and Belles-Lettres, under the patronage of Lord Kaimes. About this time, too, he contracted a friendship, which continued without interruption till his death, with Mr. Alexander Wedderburn, now Lord Loughborough." Wedderburn, in 1748, was only fifteen; and as Smith went to Glasgow in

1751, this enduring friendship must have been settled on its foundation,—at the latest, when our hero was verging to eighteen. This does strike me as a remarkable proof of his early development. Perhaps no subsequent honour which he attained raises him more in our opinion than the consideration that before his manhood he was respected and cherished by Robertson, Smith, and Hume.

fied to be appointed a judge. It had been under deliberation whether he should not, according to a custom which had long prevailed in Scotland, be sent to study the civil law at Leyden; but the reputation of this once famous university had been for some time declining, while that of Edinburgh was rising as a school of law, as well as of medicine,—and the advantage of studying under the laborious and accurate Erskine, afterwards the author of the “Institutes,” was thought too considerable to be sacrificed.

Wedderburn now laid in the chief stock of law on which he traded for the rest of his days—for he never again studied this science systematically; and afterwards he was contented to make himself acquainted with particular questions as they arose *pro re nata*—aiming at the character rather of a dexterous practitioner than of a profound jurist.

He felt within him very early not only the stings of ambition, but a consciousness of his own powers, and a sanguine anticipation of success if opportunity were afforded to him. It has been supposed, even by such diligent inquirers as Lord Brougham,<sup>o</sup> that Wedderburn had no thought of trying his fortune in England till his famous quarrel with Lockhart in the Parliament House;—whereas it is quite certain that, while still a stripling—“from the time he could look about him, and compare himself with others,”<sup>p</sup> he had become dissatisfied with the prospect of spending his life before Lords Ordinary and in the Inner House, without the hope of earning 1000*l.* a-year at the Bar or on the Bench, and that he had listened with rapture to the almost incredible stories which reached Edinburgh of the immense profits made by Mr. Yorke, before he had practised four years in Westminster Hall—of the power and riches of English Attorney and Solicitor Generals, and of the glory of the Chancellor, the highest civil dignitary in the kingdom. He recollected that this officer was designated “Lord High Chancellor of GREAT BRITAIN,” and there seemed to him no reason why the office should not be filled by a Scotsman as well as by an Englishman. It was true no countryman of his had yet thought of this distinction, and no one educated in Scotland had yet tried his luck at the English Bar. Hamilton, an advocate of some eminence, the father of “Single-speech Hamilton,” had gone up to reside in London immediately after the Union; but he had entirely confined his practice to Scotch appeals at the bar of the House of Lords. William Murray, born in Scotland, was now At-

<sup>o</sup> Statesmen in Reign of George III., 1st series, p. 70.

<sup>p</sup> His own words.

torney-General, with the highest offices of the law within his reach; but he had been "caught" when a boy, and, never revisiting his native country, he had been bred at Westminster and Christ Church.

Old Chesterhall, when consulted about this plan, thought it very visionary, but, to humour the lad, carried him to the country seat of the Earl of Marchmont, to show him to Hume Campbell, who was there on a visit, and who, from having some little business at the English Bar, and from his brother's position, had a considerable reputation in Scotland. Lord Loughborough, when he had become a great man, gave the following account of this inspection:—"I took up at once a great contempt for the said Hume Campbell; and whether I had made myself purposely very disagreeable, or, disliking the whole notion of being so exhibited, only appeared very stupid, I do not know; but the result was, that Hume Campbell voted me a 'hopeless dunce,'—declared that it would be quite extravagant to send me to the English Bar,—urged my father not to think of sending me even to the Scotch Bar, as I was quite unfit for the profession of the law, and advised him to ship me off to sea, or to try to get a commission for me in the army."<sup>9</sup> He added, "I had my revenge; for, very early in business in London, an opportunity of attacking Hume Campbell occurred to me, and I inflicted such a castigation upon him, that I drove him out of the Court of King's Bench, and forced him to seek relief in the Court of Chancery."

On his return to Edinburgh from Marchmont, Wedderburn's resolution to go to the English Bar remained unshaken; and he devoted himself with more ardour to the pursuits which he thought might qualify him for it—particularly striving to acquire a style of sarcastic, cool, cutting invective. He translated Pascal's Letters twice over with his own hand,—while engaged in this task never losing sight of Hume Campbell.

Indulging in day-dreams of future greatness, he reached his twentieth year, when, being endowed with a large por-

<sup>9</sup> I am indebted for this, and other interesting anecdotes of Wedderburn's career, to the present Lord Justice Clerk Hope, who had them from his uncle, the late Earl of Haddington. Lord Loughborough was fond of having young men of rank from his own country about him, and with Lord Haddington, who, from his powers of conversa-

tion and shrewd knowledge of the world, was a special favourite, he was often in the habit of dwelling upon his early life, and would speak of the manner in which his own character had contributed to his own rise, very much as a third person intimately acquainted with him might have done.

tion of wariness as well as of enthusiasm, he was somewhat appalled by the known and unknown perils of his scheme. The hatred of the Scots, which disgraced the English nation in the time of Lord Bute, had not burst forth; but he was conscious, that as yet he could not speak the language of the country where he meditated such achievements, and that beyond the *res angusta domi* there might be obstacles in his way which were wholly insurmountable. He exclaimed,

“The wide, th’ unbounded prospect lies before me;  
But shadows, clouds, and darkness rest upon it.”

At last he resolved to take a journey to London, that he might himself view the promised land, and not only judge of its productions, but form some notion as to the practicability of his ever obtaining a share of them.\*

He communicated his intended journey to his friend David Hume, without fully confessing to him, or to any  
A.D. 1753. one else, his *arrière pensée*, and received from the philosopher the following letter of introduction to Dr. Clephane, a Scotch physician, settled in London, whose acquaintance Hume had made when they served together under General St. Clair in the expedition to the Isle of Rhé, and with whom he had continued to keep up a friendly correspondence:—

“Edinburgh, 6th March, 1753.

“DEAR DOCTOR,

“This is delivered to you by my friend Mr. Wedderburn, who makes a jaunt to London, partly with a view to study, partly to entertainment. I thought I could not do him a better office, nor more suitable to both those purposes, than to recommend him to the friendship and acquaintance of a man of learning and conversation. He is young,

— ‘*Mais dans les âmes bien nées  
La vertu n’attend pss le nombre des années.*’

It will be a great obligation both to him and me, if you give him encouragement to see you frequently; and after that, I doubt not you will think that you owe me an obligation—

‘*Ha in giovenile corpo senile senno.*’

But I will say no more of him, lest my letter fall into the same fault which may be remarked in his behaviour and conduct in life—the only fault which has been remarked in them,—that of promising so much that it will be difficult for him to support it. You will allow that he

\* “To clear this doubt, to know the world  
by sight,  
To find if books or swains report it  
right,

He quits his cell; the pilgrim’s staff he  
bore,  
And fix’d the scallop in his hat before.

must have been guilty of some error of this kind, when I tell you that the man with whose friendship and company I have thought myself very much favoured, and whom I recommend to you as a friend and companion, is just twenty.

"I am, dear Doctor, your affectionate friend and servant,

"D. HUME."

It was the end of March before Wedderburn reached London, and the circuits going on, he was disappointed in finding neither the courts of law nor the Court of Chancery sitting, and that almost all the eminent lawyers were out of town. However, through Dr. Clephane and others, to whom he had letters of introduction, he inquired into the course of legal education in England, the manner in which business was at first acquired at the Bar, and the chances of professional advancement. When presented to Mr. Attorney-General Murray, he could not enter on such topics with so great a man; but he contrived to make acquaintance with some junior barristers on their return from the circuit, who initiated him in all the mysteries of the study and practice of the law of England. His courage rose. He was relieved from all apprehension of being obliged to submit to a tedious course of lectures and examinations before he could be called to the English Bar. He was told that zealous friends might do a good deal for a young barrister at his first start: he thought that the whole of the Scotch interest might be exerted in his favour, there being no countryman to divide it with him; and instances were mentioned of the fortune of a young barrister having been made by a single lucky opportunity. In after-life he likewise confessed that he felt increased confidence in comparing himself with some English counsellors who were succeeding well; for, though they could quote the classics glibly without any misgiving about a false quantity, he found that he had a much greater store of general information, and that he was infinitely better acquainted with Vinetius and Voet. The chief obstacle he dreaded was his defective knowledge and vicious pronunciation of the vernacular tongue. Although he could write English, as well as Latin, with tolerable purity, in common conversation he was often reduced to great embarrassment from not being sure that he knew how to express himself properly about the most trifling matters; and he could easily perceive that, notwithstanding the politeness of the Englishmen he met, they had great difficulty in commanding their gravity when he spoke in the native

accent of the Canongate, and still more when he rashly attempted to imitate them, and came out with the jargon called "High English."

Relying, however, on his own perseverance, energy, and good luck, he wrote a long letter to his father, pointing out that he had a better chance of success in Westminster Hall than in the Parliament House, and praying for an immediate and absolute change of destination. Chesterhall, himself still labouring at the Scotch Bar to little purpose, could not deny the truth of a good deal of Alec's reasoning, but was appalled at the thought of the adventurous youth being swallowed up by a troubled ocean on which no Scotsman had ever embarked before. His prudent resolve at last was to give his consent to the boy entering himself of an Inn of Court, and keeping terms, so that he might be qualified hereafter to be called to the English Bar if such a step should be deemed expedient, but on the express condition that he should at the same time complete his legal *curriculum* at Edinburgh, pass advocate there, and in the first instance seriously and earnestly try his fortune in his own country, where his prospects, though less splendid, would be more secure; at all events he would thus have two strings to his bow.

Wedderburn piously submitted to this compromise, and acted upon it with entire good faith. He immediately entered himself of the Inner Temple in the following words:—"Alexander Wedderburn, gentleman, son and heir-apparent of Peter Wedderburn of Edinburgh, Esquire—admitted 8th May, 1753."

He remained in London a few weeks longer, and dined ten times in the Hall, by which Easter and Trinity Terms were kept; and he returned to Edinburgh before the termination of the summer session in the Parliament House. To please his father he immediately entered upon his "Civil Law Trials."

It has often been said that he "passed advocate," or was called to the Scotch Bar, while still under age; but this was impossible. On the 28th of February, 1750, the Lords of Council and Session passed an act of *sederunt*, ordaining "that hereafter no person shall be admitted a member of the Faculty of Advocates but such as having been effectively tried upon his proficiency, not only in civil law, but also in the municipal law and practice of Scotland, shall be found duly qualified by the examiners appointed by the Faculty for that purpose;

as also, the private examiners are hereby *prohibited and discharged to proceed to the examination of any intrant upon the civil law, unless he shall previously produce reasonable evidence to their satisfaction* THAT HE HAS ATTAINED THE AGE OF TWENTY YEARS COMPLETE, which proof or evidence shall by them be reported to the Dean and Faculty, if he shall be found duly qualified by his knowledge in the civil law. And the said Lords further statute and ordain, that no person shall be admitted to the trial of his knowledge of the municipal law and practice aforesaid *until one full year shall have elapsed after his examination upon the civil law.*"

Having undergone his civil-law trials very creditably, Wedderburn devoted himself to Craig, M'Kenzie, and Bankton, comparing the Scotch with the English system of jurisprudence, through the medium of Blackstone's Commentaries recently published in London,—and when the proper time had arrived he was fully prepared for a compliance with all the prescribed requisitions prior to putting on the gown. In addition to his trials in the municipal law, he had to write a Latin thesis on a juridical subject, and to defend it against all impugnors. Our northern brethren, like ourselves of the English Inns of Court, had relaxed much the strictness of ancient discipline on such occasions. Fifteen public examiners (generally the fifteen junior members of the Bar) were still appointed by the Faculty to impugn every thesis, but they showed no pugnacity, however questionable might be the positions to be impugned."

In due time, before the appointed day, appeared on the College gates the following notice and challenge:—

"DISPUTATIO JURIDICA  
Ad Tit. I. Lib. XIX. Pand.  
*De Actionibus empti venditi*  
QUAM,  
FAVENTE NUMINE  
Ex auctoritate clarissimi ac consultissimi Viri,  
D. ROBERTI DUNDAS,  
Ab Arniston,  
Inclytæ Facultatis juridicæ Decani,  
Nec non  
Ex ejusdem FACULTATIS consensu et decreto, pro  
ADVOCATI munere consequendo,  
publicæ disquisitioni subjicit  
ALEXANDER WEDDERBURN, Auct. & Resp.  
Ad diem 29 Junii, 1754, hora 12 meridiana, loc. sol."

Soon after, even the form of appointing the usage since has been for each impugnors by the Faculty was dropped, and to choose some of his own friends at the Ba:

Then and there did he thus begin :—

“ Quintus Scævola, Pontifex maximus, summam vim dicebat  
A.D. 1754. esse in iis arbitriis, in quibus adderetur EX FIDE BONA,  
 fideique bonæ nomen existimabat manare latissimè,  
 idque versari in *rebus emptis venditis* : in his magni esse iudicis  
 statuere, quid quemque cuique præstare oporteret. Hinc oritur  
 disquisitio de actionibus empti venditi, quæ, ut uterque con-  
 trahentium, quod sibi invicem præstari oportet, iudicis auc-  
 toritate, etiam ab invito, consequatur, comparatæ sunt.” He  
 then proceeded to lay down very learnedly the law of vendor  
 and purchaser, fortifying all his positions by references to the  
*Corpus Juris Civilis*, and stating the points on which doctors  
 differed. Thus :—“ Neratius ait, venditorem in re tradenda  
 debere præstare emptori, ut in lite de possessione potior sit;  
 sed Julianus, *l. 15, Dig.*, nec videri traditum, si superior in  
 possessione emptor futurus non sit, *l. ii. § 13, ff. h. t.* Si  
 tamen emptor incertum quid, veluti jactum retis, emerit, ven-  
 ditor tantum tenetur præstare quantum in se est; si igitur  
 retem jactaverit, etiamsi nihil ceperit, emptore pretium præ-  
 stare necesse habebit, *l. ii. § 18, ff. h. t. in fin.* Si vero jactum  
 retis emerit et jactare retem piscator noluerit, incertum ejus  
 rei æstimandum, Celsus ait, *l. xii. ff. h. t.*” There is a tra-  
 dition that the young impugners started some puzzling  
 objections to him respecting the *cast of the net*—putting  
 analogous questions touching the sale of the fees of an ad-  
 vocate during his first session, and whether the price would  
 be due—“ etiamsi nihil ceperit”—and the degree of diligence  
 with which he would be required to ply in the Parliament  
 House—and how far he would be held bound at the instance  
 of the “emptor” to be civil to the solicitors? But the  
 aspirant answered them triumphantly. He was accordingly  
 in due form presented to the Fifteen as worthy to be made a  
 member of the Faculty, and he was invested with the long  
 robe, wearing a cocked hat over his powdered hair,—for  
 barristers’ wigs were not yet known beyond the Tweed.

The following is the entry of his call in the Records of the  
 Faculty of Advocates :—

“Edinburgh, 29th June, 1754.

“Mr. Alexander Wedderburn, son to Mr. Peter Wedderburn, Advo-  
 cate, was publicly examined upon Tit. I. Lib. XIX. Pand. ‘De actioni-  
 bus empti venditi,’ and found qualified.”

to go through the farce of *impugning*. This statement of the case “John Danvers seized  
 is pretty much on a footing with the disputa- in fee,”—and they stand equally in need of  
 tion in Lincoln’s Inn beginning with the reform.



Under the *Imprimatur* of Sir Gilbert Elliot and Sir David Dalrymple on behalf of the Faculty, he printed and published his thesis with the following dedication:—

"SPECTATISSIMO ET ORNATISSIMO  
 SCIO LTO CAROLO DOMINO de *Aberdour*  
 JACOB COMITIS de *Morton*  
 FILIO DIGNISSIMO;  
 FELICEM ANIMI INDOLEM  
 OMNIBUS VITÆ CULTIORIS STUDIIS  
 SUB OPTIMI PATRIS AUSPICIIS  
 COLENTI;  
 DISPUTATIONEM HANC JURIDICAM  
 STUDIO RUM PRIMITIAS,  
 AMICITIÆ A TENERIS ANNIS EXCULTÆ  
 MONUMENTUM,  
 D. D. C. Q.  
 ALEXANDER WEDDERBURN.

## CHAPTER CLXIII.

CONTINUATION OF THE LIFE OF LORD LOUGHBOROUGH TILL HE FINALLY LEFT SCOTLAND.

For three whole years Wedderburn continued regularly and energetically to ply his profession in Scotland, except <sup>A.D. 1754—</sup> that each spring he slipped away for a few weeks to <sup>1757.</sup> London, to eat dinners in the Inner Temple Hall, so that he might still have the English Bar as a resource. In 1755 he was supposed to gain a great advantage by the elevation of his father to the Bench,—from succeeding to the business of certain family clients, and from the expected favour of the court to the causes patronised by the son of a judge—a feeling much more prevalent in Scotland than in England. Each successive year he was appointed by the Faculty one of the advocates for the poor—one of the fifteen public examiners and impugners—and one of the curators of the Advocates' Library.

The following is the account he gave of his maiden brief:—  
 "Knowing the character of my countrymen at that time, I was at great pains to study and assume a very grave, solemn deportment for a young man, which my marked features, notwithstanding my small stature, would render more imposing

Men then wore in winter small muffs, and I flatter myself that, as I paced to the Parliament House, no man of fifty could look more thoughtful or steady. My first client was a citizen whom I did not know. He called upon me in the course of the cause, and becoming familiar with him, I asked him, 'how he came to employ me?' The answer was, 'Why, I had noticed you in the High-street going to Court'—the most punctual of any as the clock struck nine, and you looked so grave and business-like, that I resolved from your appearance to have you for my advocate.'” He spoke with great satisfaction of the success resulting from the deportment he had assumed.

Although he seems early to have excited a very considerable sensation in his own country, I can find no trace of his eloquence in the Court of Session till the very close of his career there;\* and my southern readers will be astonished to hear, that the great theatre for his rhetorical displays was the General Assembly of the Church of Scotland—not as counsel at their bar, but as a Ruling Elder, leading their deliberations on grave questions of heresy and church discipline.

At this time, in the absence of a parliament, the General Assembly was considered a sort of national representative body, and many of the nobility and gentry sat in it as lay members, after being ordained elders—being deputies of presbyteries, royal burghs, and universities. But next to the venerable fathers of the Kirk, the great speakers were young advocates, who contrived to be sent up as elders,—I am afraid, less with a view to further the objects of religion, than to gratify their own vanity, and to show how well qualified they were to manage causes before the Courts of Session and Justiciary.

Wedderburn was of a Presbyterian family; and, to be qualified for the General Assembly, immediately after he was called to the Bar, at the age of twenty-one, he was privately ordained an elder of the parish in which his father resided in

\* To understand this thoroughly, the habits of Edinburgh in the middle of the last century—the groups assembled for conversation near the Cross, and the practice of shopkeepers to stand at their shop-doors, and to notice all who passed, saluting those whom they knew—should be kept in remembrance. I myself, when a boy, have witnessed a remnant of such habits—whereas now the great

shopkeepers read the newspapers in a counting-house elegantly fitted up, and the lawyers drive to the Parliament House in their coaches.

\* There is a bare mention of his name once or twice in the Faculty Reports, the last as counsel in *Hunter v. Aitkin*, 6th July 1757. *Morrison's Dictionary of Decisions*, p. 3448.

East Lothian. For the General Assembly, which was to meet in the month of May following, he was elected representative by the royal burgh of Inverkeithing.

Scotland was at this time in a state of extraordinary ferment from the philosophical writings of David Hume, and a work of Henry Home, just made a judge under the title of Lord Kames, which was supposed to contain doctrines little less pernicious.<sup>7</sup> The zeal of the orthodox was quickened by a proceeding in England which they wished to outdo. About a year before, there had been a presentment by the Grand Jury of the city and liberty of Westminster against Mallet for publishing the works of Lord Bolingbroke. In the north, such offences were considered more properly within the cognizance of the ecclesiastical courts; and a certain Reverend Dr. Anderson, who published many pamphlets on the subject, now resolved to have the two great delinquents at the bar of the supreme sacred tribunal on earth, and to launch against them the terrors kept in store by those vested with the true power of the keys.

I have not been able to find any record of the maiden speech of the Elder for Inverkeithing, or the part which he took in the proceedings of this Assembly; but the probability is that he seconded the efforts of the more moderate and discreet friends of religion, who succeeded in suppressing the introduction of the names of any particular writers for public discussion, and who acquiesced in a general expression of opinion against prevailing infidelity and immorality.<sup>8</sup>

Anderson, however, was by no means satisfied, and as soon as the Assembly was dissolved, he published another pamphlet, which ran through many editions, attempting to prove,

<sup>7</sup> "Nature and Obligations of Morality."

<sup>8</sup> The Assembly passed unanimously the following "Act against Infidelity and Immorality."—"The General Assembly being filled with the deepest concern on account of the prevalence of Infidelity and Immorality; the principles whereof have been, to the disgrace of our age and nation, so openly avowed in several books published of late in this country, and which are but too well known amongst us; do therefore judge it proper and necessary for them at this time to express the utmost abhorrence of these impious and infidel principles, which are subversive of all religion, natural and revealed, and have such pernicious influence on life and morals. And they do earnestly recommend

it to all the Ministers of this Church to exercise the vigilance and to exert the zeal which becomes their character, to preserve those under their charge from the contagion of these abominable tenets, and to stir up in them a solicitous concern to guard against them, and against the influence of those who are infected with them." It has been stated to me that "Wedderburn, for the sake of his friends, who were well known to be struck at, wished to move the previous question, but found that he was struggling against a stream which would have overwhelmed him—and said he was sure, while their names were not mentioned, they would consider the general censure *brutum fulmen*."

by texts of Scripture, that it was the imperative duty of the Church, for the reformation of the wicked, for the protection of the unwary, and in the due exercise of the power vested in true believers constituting the visible Church, to cut off from its communion and to hand over to the Devil those who had violated their baptismal vow; and that a great national sin would be incurred unless personal proceedings were instituted and sternly carried on against the individuals who were now misleading so many, and who were little better than that Antichrist from whom their fathers, under the pious and unflinching Knox, had delivered the land.

David Hume and Lord Kames became seriously alarmed. The former was then Keeper of the Advocates' Library, and candidate for the chair of Moral Philosophy in the University of Edinburgh. The latter, clothed in ermine, was not yet warm in his seat as a judge. Sentence of the "greater excommunication" would not only have exposed them to a vast deal of social annoyance,—causing them to be regarded with horror by the godly, and with ridicule by the profane,—but might have very seriously injured them in their worldly interests. Their main reliance was on the good sense of Dr. Robertson, and the influence he had established in the Church, but they were likewise solaced by the friendly zeal and enterprising activity of Wedderburn. Having, for some unexplained reason, quarrelled with Inverkeithing—to secure himself another seat in the General Assembly, our Elder contrived to make himself Provost of Dunfermline, and he acquired a complete ascendancy over the council of this burgh. He was unanimously elected their representative for the Assembly summoned to meet in May, 1756,—from which greater things were expected than had been achieved for the true faith since the Reformation. As the time approached, Anderson and his associates varied their plan of operations, and, letting alone for the present Lord Kames, whose book was liable to the charge of heterodoxy rather than of infidelity, they resolved to bend all their efforts against David Hume,—to summon him to the bar,—to examine him *viva voce* respecting his writings and religious opinions, and, if he proved contumacious, to make a great example by inflicting upon him the highest censures of the Church.

Accordingly, on the 28th of May, 1756, an overture or motion was made, that "The General Assembly, judging it their duty to do all in their power to check the growth and

progress of infidelity; and considering that as infidel writings have begun of late years to be published in this nation, against which they have hitherto only testified in general, so there is one person, styling himself 'DAVID HUME, Esq.,' who hath arrived at such a degree of boldness, as publicly to avow himself the author of books containing the most rude and open attacks upon the glorious Gospel of Christ, and principles evidently subversive even of natural religion and the foundations of morality, if not establishing direct atheism: therefore the Assembly appoint a Committee to inquire into the writings of this author, to call him before them, and prepare the matter for the next General Assembly."

The speech of the mover was alarmingly well received; and it contained arguments which there was great difficulty in answering without being subjected to the popular reproach of "latitudinarianism," or of "indifference about religion." Wedderburn (I hope and believe from sincere conviction, and at all events from prudence) would have been very sorry to have been supposed to share the speculative doubts of the individual to be defended; but, — knowing that he was to be supported by men of unsuspected orthodoxy and piety, warmed by the recollection of the kindness for which he might now make some return, and no doubt excited by the favourable opportunity of gaining distinction, — rose to move what amounted to the previous question; very properly not venturing upon a direct negative. The following is a short sketch of his speech on this occasion. In reading it, we are surprised at the sarcasms on which he ventured, and it rather corroborates the opinion of his eloquence given by some venerable fathers of the Church, who were his contemporaries and long survived him: <sup>a</sup>

"I trust, Moderator," said the youthful elder for Dunfermline, "it is wholly unnecessary that I should follow the example of the reverend divine who has preceded me, by making any profession of zeal for the pure Presbyterian Church established in this country. I say with him, 'peace be within her walls! prosperity within her bulwarks!' Our object is the same, and we can only differ as to the means by which that object is, under Providence, to be attained. Now, notwithstanding

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<sup>a</sup> The Very Reverend Principal Lee, from whom I have received many traditions respecting him, writes, "Wedderburn was not a favourite speaker in the General Assembly. He was disliked for his occasional bursts of

insolence. Of the lawyers in the Assembly by far the most pleasing and successful speaker was Mr. Andrew Pringle (afterwards Lord Alenmore), whose flowing and dignified eloquence attracted universal admiration."

ing the headlong fervour I see prevailing in some quarters, and the impatient eagerness to crush Mr. Hume with the censures of the Church, I would humbly advise the venerable Assembly to dismiss the 'overture,' and to trust to reason and Scripture for the refutation of his errors. In the first place, let me very respectfully ask whether all who are now disposed to concur in this vote have read the writings to be condemned? Am I to believe that the holy presbyters, trusted with the care of souls of which they are to give an account, instead of preaching, praying, and catechising, have been giving up their days and their nights to Mr. Hume's 'Treatise on the Human Understanding,' or to his 'Essays on Miracles,' and on 'Cause and Effect,' writings said to be so poisonous and so pernicious,—in neglect of the spiritual good of others, and possibly to the peril of their own principles? But suppose these wicked books to have been deliberately read by every member of this Assembly, by how many of you have they been understood? And are you to defer coming to a decision till you are all agreed on their meaning? and are all of one mind upon the various abstruse questions which they discuss? Can you all tell us the difference between *coincidence* and *causation*? One Essay, very acrimoniously alluded to by the reverend mover of the overture, is on 'Liberty and Necessity;' but some have declared elsewhere that the views of the essayist thus reprobated are in entire harmony with the doctrines of Calvin and Knox on predestination and the eternal decrees of God—by which the fall of man was preordained before the foundation of the world, and all those who are to perish everlastingly are under the doom of eternal reprobation. Such notions may be unphilosophical, and may be unscriptural, but when are you to come to a unanimous and satisfactory conclusion on the questions broached by your overture? You must have made up your own minds upon them before you call in Mr. Hume,—who may be better prepared than it may be convenient for some of you, to prove that they are not at variance with the standards of the true Presbyterian faith. I would, with all possible respect, request you to recollect the procedure in another meeting of intelligences, with which I would venture to compare this venerable Assembly only for eloquence, and a deep theoretical knowledge of divine truth. When these casuists, though of more than mortal grasp of thought,

———— 'reason'd high  
Of providence, fore-knowledge, will and fate,  
Fix'd fate, free will, fore-knowledge absolute,  
They found no end, in wandering mazes lost.'

The opinions complained of, however erroneous, are of an abstract and metaphysical nature—not exciting the attention of the multitude—not influencing life or conduct; your spiritual censures should be reserved for a denial of the divine right of presbytery, or practical errors which lead to a violation of the ten commandments. What advantage do you really expect from the course which is proposed? Is there any chance of your convincing Mr. Hume, and of making him cry *peccavi*? Alas! I am afraid he has withstood the reasonings of the subtlest philosophers

who have attempted to refute him; and you can hardly expect that a miracle should again be performed—one of your number being specially empowered to speak to him. Upon his proving contumacious you are resolved to punish, if you cannot reform, him; and the awful sentence of the ‘Greater Excommunication’ is to be pronounced—by which he is to be excluded from the society of all Christians, and to be handed over to the evil one. But this is a sentence which the civil power now refuses to recognise, and which will be attended with no temporal consequences. You may wish, for the good of his soul, to burn him as Calvin did Servetus; but you must be aware that, however desirable such a power may appear to the Church, you cannot touch a hair of his head, or even compel him against his will to do penance on the stool of repentance.<sup>b</sup> Are you sure that he may not be so hardened as to laugh at your anathemas, and even to rejoice in them as certainly increasing the circulation of his books and the spread of his opinions? If he is grave and sarcastic, may he not claim the right of private judgment for which your fathers have bled? and if you deny it to him, may he not call upon *you* to obey the mandates of the Roman Catholic Church, and again to keep company with that Lady of Babylon whom you hold in such abomination? But there is one other point, which, being a lawyer, as well as a member of this venerable Assembly, I wish before I conclude to bring under your serious consideration;—where is your jurisdiction to proceed in this case? I admit your jurisdiction in spiritual matters over all the members of your Church. But you assert that Mr. Hume is not even a Christian. Why are you to summon him before you, more than any Jew or Mahometan who may happen to be travelling within your bounds? Your ‘libel,’ as we lawyers call it, is *ex facie* inept, irrelevant, and null, for it begins by alleging that the defender denies and disbelieves Christianity, and then it seeks to proceed against him and to punish him as a Christian. Your charge must be true or false. If it be false, it is to be rejected as contrary to truth and justice; and if it be true, the party charged is unfortunately one of those who in the language of the Bible are ‘*without*,’ and consequently are not proper objects of Christian discipline. For these reasons I move ‘That while all the members of the General Assembly have a just abhorrence of any doctrines or principles tending to infidelity or to the prejudice of our holy religion, yet they drop the overture against Mr. David Hume, because it would not, in their judgment, minister to edification.’”

Wedderburn was rather roughly handled by several clerical speakers who followed. They abstained from any insinuations against his own sincerity or orthodoxy, but maintained—

<sup>b</sup> This form, being often occupied by young ladies who become mothers without being wives, and are rebuked from it in the face of the congregation, is usually called “the *Cutty*

stool,” but was formerly the place where all delinquents sat when rebuked before the congregation.

“that Mr. Hume’s writings were a fit subject for the animadversion of the supreme court of the Church, as they were directly subversive of all religion, natural and revealed. It was limiting the power of God to suppose that an erring mortal might not be brought to a right frame of mind through the instrumentality of the punishments and prayers of the Church; and, at any rate, the reformation of the peccant individual was less to be regarded than the safety of others. No views of expediency should interfere with the plain precepts contained both in the Old and New Testament for the correction, by the instrumentality of the Church, of heresy and schism, including most especially a denial of the being of a God, or of the mission of his Son Jesus Christ. It was by no means so clear that excommunication would be treated so lightly by Mr. Hume. He had hitherto seemed desirous of enjoying the worldly advantages of being considered a Christian, after having forfeited all title to the name: his writings henceforth would be shunned by all in any danger of being corrupted by them: and, above all, it was most desirable that a broad line of separation should be drawn between him and all who profess to be Christians; for it was lamentable to think that, at present, ordained clergymen of the Church of Scotland were in the daily habit of associating with him, to the great scandal of all real Christians.<sup>c</sup> The objection on the question of jurisdiction was a quibble, and would go to put an end to such prosecutions in the worst cases; for in proportion as the crime against religion was great, the power to punish it would be taken away. Let a man utterly deny and revile the Holy Scriptures, and the learned elder for Dunfermline would tell you, ‘You have no power to censure him, for he is not a Christian.’ Mr. Hume, who had been received at his birth into the Church of Christ, had never been formally excluded from it, and had not only never renounced his baptism, but he continued to profess himself a Christian, and to talk of Christianity as ‘*our* most holy religion.’”<sup>d</sup>

Dr. Robertson (now fully established in the lead of the Church), according to his custom, concluded the debate with admirable tact and discretion; a great many ministers left the house to avoid the opprobrium of voting on either side; and on a division, the amendment to dismiss the “overture” was carried by a majority of 50 to 17.

This alarm, joined to the bad success of his *History* on its first appearance, caused such disgust in the mind of Mr. Hume; that Wedderburn and his other friends had great difficulty in dissuading him from putting in execution the plan of for ever renouncing his country, changing his name, and spending the remainder of his days in a remote provincial town in France.

<sup>c</sup> This was chiefly aimed at Dr. Robertson.

<sup>d</sup> “Our most holy religion is founded on Faith, not on Reason.”—*Essay on Miracles*.



He was soon freed from all apprehension of further disturbance on account of his opinions, by the penal visitations of the Church being directed against other objects.\* A few months after the dissolution of the last General Assembly there was brought out on the stage at Edinburgh the tragedy of DOUGLAS, written by the Reverend John Home, minister of Athelstonford,—which threw all Scotland into a ferment. The great majority of the inhabitants were intoxicated; for, not contented with the just belief that this was a most beautiful poem, and admirably adapted to scenic representation, they asserted that it was by far the finest drama that had ever appeared in the English language; that Shakspeare was to be eclipsed, and that Corneille and Racine were to be rivalled, by a Scottish bard.<sup>f</sup> But great scandal was caused by the behaviour of many of the clergy upon this occasion. Not only the author, but several of his reverend brethren having cures in the city and neighbourhood, were in the theatre on the first representation of the piece; and, at the successive repetitions of it, ministers and elders from distant parts of Scotland did not scruple to attend and applaud. The old presbyterians, like the English puritans, had severely reprobated all theatrical exhibitions, and had strictly forbidden them to the laity as well as to the clergy. Many, therefore, considered the passion for the stage with which the nation seemed suddenly struck as “a delusion of Satan.”<sup>g</sup>

At the approach of the next General Assembly, it was resolved that the most energetic measures should be taken to stay the plague. Mr. Home himself would not face the storm, and withdrew from the jurisdiction of the Kirk by

\* He had previously entertained the vain hope that his errors might be forgotten in the controversy then raging between the ancient and modern psalmody. Upon the maxim that “the Devil ought not to have all the good music,” an attempt was now made to introduce into the service some of the best airs of a solemn character composed in modern times; but this was resisted as a dangerous innovation, and the faithful were as equally and as keenly divided upon it as upon the recent question of the Free Church. Not unfrequently, when the psalm had been “given out” and the singing was to begin, in contempt of the precentor one half of the congregation would sing the appointed lines to an old tune, and the other to a new. But, through the mediation of Dr. Blair, the

Church escaped this peril, and the threatened diarruption did not take place.

<sup>f</sup> It is curious that David Hume himself, from his dislike to the literature of the English, joined, or professed to join, in the general enthusiasm,—as he affected to consider “Douglas” superior to “Macbeth,” and the “Epigoniad” equal to “Paradise Lost.” On the first representation of “Douglas” in London, when the curtain dropped amidst thundering applause, an Aberdeen man in the front row of the shilling gallery, overpowered with delight, shouted out, in the racy dialect of his district, “Ou fie, lada! fat think ye o’ yir Willy Shakspeare noo?”

<sup>g</sup> Scots Magazine, 1756-7; MS. Journal of Lord Commissioner Adam.

resigning the living of Athelstonford. Two or three clergymen, who had been identified as being present at the theatre, when brought before the Assembly acknowledged their offence—one of them urging in mitigation that “he had ensconced himself in a corner, and had hid his face with a handkerchief, to avoid scandal.” They were let off with a severe reprimand from the Moderator. So far the proceedings were conducted with unanimity; but a very animated debate arose respecting measures for the future. It was proposed that the General Assembly should pass a new and stringent act against all members of the Church, lay or clerical, who should be present at any theatrical exhibition. According to the form of proceeding, the preliminary question put was, “whether there should be an overture anent the stage?”

Wedderburn, again representative for the burgh of Dunfermline, took the negative side, and, according to Lord Commissioner Adam, “made the best speech ever delivered by him in his native country.”<sup>h</sup> Unfortunately the conclusion of it only is preserved to us:—

“Be contented with the laws which your wise and pious ancestors have handed down to you for the conservation of discipline and morals. Already have you driven from your body its brightest ornament, who might have continued to inculcate the precepts of the Gospel from the pulpit, as well as embodying them in character and action. Is it, indeed, forbidden to show us the kingdom of heaven by a parable? In all the sermons produced by the united genius of the Church of Scotland, I challenge you to produce any thing more pure in morality, or more touching in eloquence, than the exclamation of Lady Randolph—

———— ‘Sincerity!

Thou first of virtues! let no mortal leave  
Thy onward path, although the earth should gape,  
And from the gulf of hell destruction cry  
To take dissimulation’s winding way.’”<sup>i</sup>

It was carried “that there should be an overture,” by 120 to 54.<sup>k</sup> An act was then proposed subjecting to ecclesiastical

<sup>h</sup> Lord Commissioner Adam’s MS. Journal.

<sup>i</sup> This famous passage, however, of which the Scotch were so proud, was (probably for that reason) vilipended by Dr. Johnson, who, on its being quoted by old Mr. Sheridan, repested with great emphasis the well-known description, by Juvenal, of a man of inflexible virtue—“*Esto bonus miles, tutor bonus,*”

&c.; adding, “and after this comes Johnny Home, with his *earth gaping* and his destruction *crying*. Pooh!”\*

<sup>k</sup> Preparatory to the meeting of this Assembly, Wedderburn had printed in the newspapers several songs and epigrams against the persecutors of “Douglas,” and Carlyle had published an ironical pamphlet under the title of “Reasons why the tragedy

censures all members of the Church, male and female, lay and clerical, who should be present at any theatrical exhibition; but this being strongly opposed by Wedderburn, and even by Dr. Robertson, although, under a vow he had made to his father, he himself had never entered the door of a playhouse, was rejected, and the following act was passed, entitled, in the Acts of the General Assembly, "Recommendation to Presbyteries to take care that none of the ministers of this Church attend the theatre :"—

"The General Assembly, considering how much the success of the Gospel depends on the regular and inoffensive behaviour of the ministers of this Church, do earnestly recommend to the several presbyteries to take such wise and effectual measures as may promote the spirit of our holy religion, and preserve the purity and decorum of the ministerial character; and that they take care that none of the ministers of this church do, upon any occasion, attend the theatre."

Before another General Assembly met, Wedderburn was transferred to a very different sphere. But we must attend him in some of the other scenes in which he drew public notice before he bade adieu to his native land. He is to be recorded as a distinguished member of the POKER CLUB. This had a political origin, although it soon became purely convivial. When the militia system was first established in England, there was a loud demand that it should be extended to Scotland; but the government was afraid to put arms into the hands of those who were still believed to be partisans of the house of Stuart. An association was formed to *stir up* the national discontent on account of this affront, and the members agreed to meet twice a week, on Tuesdays and Fridays, at a house called the *Diversorium*, in the Netherbow. To aid their deliberations they had a copious supply of excellent claret, which was drawn from the cask at the rate of eighteen-pence the quart. The grievance of the militia was forgotten, but a club was constituted under the name of the "POKER,"—Mr. Johnstone, afterwards Sir William Pultney, being elected *secretary*; and the famous advocate, Mr. Andrew Crosbie, *assassin*. Besides occasionally

of Douglas should be burnt by the hands of the common hangman." It is confessed, however by the author of the MAN OF FEELING, in his review of those times, that "the parodies and squibs in verse were, in general, not remarkable for their wit or pleasantry." It must be admitted that my ratiocinative and metaphysical countrymen have very little notion

of any thing that approaches to raillery. Hume's Essays, in which he tried to imitate Addison in lightly commenting on manners, are wretchedly bad. They were very properly excluded by him from subsequent editions of his works, and they have been most uncharitably reprinted by his recent biographers.

indulging in "high jinks," they had regular discussions on literary and scientific subjects, and they were beginning to consider themselves equal to a preceding club in Edinburgh, which had carried on a philosophical correspondence with the celebrated Berkeley, Bishop of Cloyne, upon the existence of matter. Although Wedderburn was not a very regular attendant, when he was present he contributed his full share of epigram, anecdote, criticism, and hilarity. But, alas! this club, while still in the freshness and vigour of youth, was suddenly extinguished by the tax laid on French wines. The members, though learned and witty, being poor, could not afford to have the price of their favourite beverage doubled at a blow; and they abhorred port, the beloved beverage of their southern fellow-subjects.<sup>m</sup> To punish the government, they agreed, on the motion of Mr. Wedderburn, to dissolve the "Poker," and to form another society which should exist without consumption of any exciseable commodity—purely for mental improvement and gratification—defying the Chancellor of the Exchequer and all his works—to be called the "Select." The founder was Allan Ramsay, the painter, son of the author of the GENTLE SHEPHERD. The first meeting was held in the Advocates' Library, in the month of May, 1754, when, on the motion of Mr. Ramsay, Mr. Wedderburn, who had just completed his twenty-first year, was called to the chair. The original minutes of this meeting (by the special favour of the Faculty of Advocates) now lie before me. Mr. Alexander Wedderburn's name comes the fourth; and there are to be found in the list of original members then present—

Mr. DAVID HUME.

Mr. JOHN HOME, Minister of Athelstonford.

Mr. WILLIAM ROBERTSON, Minister of Gladsmuir.

Mr. HUGH BLAIR, Minister of Edinburgh.

Mr. ADAM SMITH, Professor of Glasgow.

Sir DAVID DALRYMPLE, Advocate.

Dr. ALEXANDER MONRO.

Dr. JOHN HOPE.

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<sup>m</sup> On this occasion were written the well-known lines by John Home:—

"Firm and erect the Caledonian stood,  
Old was his mutton, and his claret good:  
'Let him drink port,' an English statesman cried;  
He drank the poison, and his spirit died."

Mackenzie, in his Life of the author, says "As to the port wine, it is well known that Mr. Home held it in abhorrence. In his younger days, claret was the only wine drunk by gentlemen in Scotland."

Mr. ANDREW PRINGLE, Advocate.

Mr. WILLIAM JOHNSTONE, Advocate.

Wedderburn must have obtained a wonderful ascendancy, considering his years, to be elected "Præses" at such a meeting. The great object of the members was to improve themselves in public speaking—a department of education which had hitherto been almost entirely neglected in Scotland. The members were at first limited to fifty, and all candidates were afterwards to be balloted for. The admission fee was only five shillings sterling. The meetings were to be every Wednesday evening, from November to August, in the Advocates' Library, between six and nine, when a subject given out by the præses of the preceding meeting was to be debated. "Every member might propose any subject of debate, except such as regard revealed religion, or which might give occasion to vent any principles of Jacobitism—to be received or rejected by a vote of the committee, and, if received, to be entered in a book to be kept for that purpose." The rule about speaking is perhaps the most curious, and it may afford hints for the regulation of other deliberative assemblies: "That every person may speak three times in a debate, and no oftener; the first time fifteen minutes, and ten minutes each of the other times—addressing himself to the member presiding. And if two or more stand up at the same time, the member presiding shall call upon him whom he first perceived rising—always giving preference to him who has not spoke, or not so frequently as the person or persons rising with him; unless any member rises to explain any thing said by him and misunderstood: for which purpose he shall be allowed two minutes and no more."

The præses at the second meeting was Mr. Adam Smith, and he named as the next subject of debate, "Whether bounties on the exportation of corn be advantageous?" But when the debate came on he took no part in it himself; and both he and David Hume, though they attended frequently, always remained mute.

Wedderburn was active both in speaking and in managing the affairs of the Society. The following entry shows that he was very presumptuous, and that he was treated with great forbearance:—"7th Aug. 1754. The committee having refused the following question—'Whether the law of Queen Joan of Naples, allowing licensed stews, would be of advantage to a nation,' Mr. Wedderburn, who proposed it, appealed to the

*Society, and the determination of the appeal was delayed till next session."*<sup>a</sup>

I copy some of the questions which were debated:

"Whether the common practice in Scotland, of distributing money to the poor in their own homes, or the receiving the poor into work-houses and hospitals, be most advantageous?" "Whether the establishment of Banks in Scotland has increased wealth?" "Whether the bounty should be continued on the exportation of linen?" "Whether the laws against bribery and corruption ought to be repealed?" "Whether Brutus did well in killing Cæsar?" "May a lawyer of ordinary parts become eminent in his profession?" "Whether the Repenting Stool ought to be taken away?" "Whether whisky ought to be laid under such restrictions as to render the use of it less frequent?" "Whether the stage ought to be permitted in a well-regulated government?" "Whether the place given to love and gallantry in modern tragedy be not unnatural?" "Whether ought we to prefer ancient or modern manners, with regard to the condition and treatment of women?" "Whether the difference in national character be chiefly owing to the nature of different climates, or to moral and political causes?" "Whether is an epic poem or a tragedy the most difficult and most perfect composition?" "Have the moderns done well in laying aside the use of a chorus in tragedy?" "Whether entails in perpetuity be for the good of families and the improvement of the country?" "Whether a university in a metropolis or in a remote town be more proper for the training of youth?" "Whether an academy for painting set up in Scotland would deserve the encouragement of the public?" "Whether the right of primogeniture ought still to take place?" "Whether courts of law ought to be allowed to take cognizance of parliamentary privilege?" "Whether presentation by patrons, or election by the parishioners, is the best mode of settling ministers?" "Whether an union with Ireland would be advantageous to Great Britain?" "Whether a Foundling Hospital erected at Edinburgh, and supported by a tax laid upon old bachelors, would tend to the prosperity of Scotland?" "Can a marriage be happy when the wife is of an understanding superior to that of the husband?" "Whether have mankind decreased in stature, strength, and virtue, during the last 3000 years?" "Whether doth a successful author feel most pleasure or pain?" "Whether the institution of slavery be advantageous to the free?" "Whether the practice of the ladies in painting their faces ought not to be prohibited by every wise government?" "Whether an excess of impudence or of modesty is most hurtful to a man in the commerce of the world?" "Whether in love we are happier in the passion we feel or in that we excite?" "Whether quackery is not more useful for obtaining success in the liberal professions than real merit?" "Whether the delays

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<sup>a</sup> This was a gentle mode of deciding against him, whereas he ought to have been reprimanded for proposing the question and preferring the appeal.

and expense attending judicial proceedings are not both necessary and useful to society?" "Whether divorce by mutual consent should be allowed?" "Ought there to be trial by jury in civil as well as criminal cases?"

These questions, more or less grave and well-chosen, may be curious, as they show the subjects which interested Scotland in the middle of the 18th century—the period of her greatest literary glory, and as the discussions upon them probably afforded many hints for the composition of Hume's "Political Essays," and of the "Wealth of Nations."

The Select Society soon became so popular that its members were trebled, and it contained many men of rank, who professed to be themselves philosophers and men of letters, or the patrons of philosophy and literature—such as Lord Kames, Lord Elibank, the Earl of Glasgow, the Duke of Hamilton, the Earl of Lauderdale, and the Earl of Bute. The speakers consisted chiefly of two classes—the ministers, and the lawyers. For lucid order, for sustained sweetness, and for solid information, Robertson was allowed to be decidedly first; while Wedderburn's sallies fixed the attention of the audience, and were sometimes found amusing by their extravagance. "The Select Society," says Lord Kames, "was instituted in 1754, and, though soon more numerous and promiscuous than its title warranted, included most of the men of letters at that time resident in Edinburgh and its vicinity." "The Society," says Dugald Stewart, "subsisted in vigour for six or seven years, and produced debates such as have not often been heard in modern assemblies,—debates where the dignity of the speakers was not lowered by the intrigues of policy and the intemperance of faction; and where the most splendid talents that have ever adorned this country were roused to their best exertions by the liberal and ennobling discussions of literature and philosophy. To this institution, while it lasted, Dr. Robertson contributed his most zealous support, seldom omitting an opportunity of taking a share in its business, and deriving from it an addition to his own fame; which may be easily conceived by those who are acquainted with his subsequent writings, or who have witnessed those powers of argument and illustration which in the Ecclesiastical Courts he afterwards employed so successfully on subjects not so susceptible of the embellishments of eloquence." In the Select Society was likewise trained the defender of Clive—the assailant of Franklin—the future Chancellor of Great Britain.

I am sorry, however, to be obliged to go on to relate that this respectable institution was finally covered with ridicule by an insane scheme which there is strong evidence to prove was entered into with the full concurrence of Robertson, Wedderburn, and its most distinguished members—the scheme being nothing less than at once to change the spoken language of the country.

The famous Charles Townshend, connected with Scotland by having married the Dowager Countess of Dalkeith, had been admitted a member of the Select Society, and had spoken once with great brilliancy; but he never could be prevailed upon a second time to take part in the debate, and he threw out a number of gibes against the dialect in which the members expressed themselves,—doubting whether he could be intelligible to the audience,—hinting that he was often unable to follow their reasoning, or fully to apprehend their rhetorical figures. He jestingly asked them “why they did not learn to speak as well as to write the English language?” and proposed that in the mean time an interpreter should be employed. Eager for the national honour, and blind to the lurking malice of the *suthron wit*, they really thought it was in their power all of a sudden to rival Hardwicke, Chesterfield, and Pitt in oratory—by attending to the just power of the letters of the alphabet, and to pauses and cadences in their discourse.

The dialect then universally used in Scotland by persons of all ages and all degrees, was certainly very barbarous. In early times there was little difference between the languages spoken in England and in the lowlands of Scotland. “Barber’s Bruce” and the poems of our James I. bear a considerable resemblance to Chaucer, and are fully as intelligible to Englishmen of the present day. But the long succession of wars which followed the vain attempt of Edward I. to subjugate Scotland, cut off all intercourse between the two countries, except by “raids” and “forays,” and there was a growing divergence between their dialects. While Scotland retained a native court, there subsisted a standard to appeal to, and her Anglo-Saxon might perhaps be considered as classical and as polished as that of her rival; but after the union of the crowns, the lowland Scotch became a mere provincial *patois*; and the want of a proper medium of communication with the learned world, almost extinguished the literary genius of the people, which had burst forth with such lustre on the revival of letters. Arbuthnot, Mallet, Thomson, and



Armstrong had first shown that Scotchmen might be taught to write English; and this accomplishment was very generally possessed by men of education of the existing generation. But still they conversed and they thought in the language which they had learned from their nurses, and which was spoken by the peasantry. This varied a good deal in different counties, but in all was uncouth and irregular. In its roots it bore a considerable resemblance to the English of the 18th century, but was very different in its inflections and idioms; and these resemblances and differences made the accomplishment of speaking English with purity and confidence more difficult to a Scotchman than to a Pole. Wedderburn, in his yearly trip to London to keep his terms in the Inner Temple, was more and more struck by the disadvantage under which he must in this respect labour, if he should ever really try his luck at the English bar: and he is said eagerly to have joined in the plan of lingual reform.

It so happened, by a strange coincidence, that at this very time old Sheridan (the father of Richard Brinsley Sheridan) came to Edinburgh to deliver lectures on elocution, and, speaking with a strong Irish brogue, undertook to teach all the delicacies of English intonation. By such nonsense as this did he delude some Scotchmen of mature years:—

“The next progression of number is when the same note is repeated, but in such a way that one makes a more sensible impression on the ear than the other, by being more forcibly struck, and therefore having a greater degree of loudness,—as *tĩ-tũm*, or *tũm-tĩ-tũm-tĩ*; or when two weak notes precede a more forcible one, as *tĩ-tĩ-tũm*; or when they follow one, as *tũm-tĩ-tĩ*, *tũm-tĩ-tĩ*.”

The Select Society, seeing only the desirableness of the object, overlooked entirely the difficulties and impossibilities which opposed it,—such as the want of models of correct pronunciation for the great mass of the inhabitants—the rigidity of the organs of speech of adults—and the succession of persons from the lower orders, and from the remote provinces, who must have the accents as much as the features of their parents. Our grave divines, lawyers, and philosophers thought that the Scottish dialect was to be got rid of by a lecture, as they had known a cutaneous disease to be cured by ointment. They consequently resolved unanimously “That it would be of great advantage to this country, if a proper number of persons from England, duly qualified to instruct gentlemen in the

knowledge of the English tongue, the manner of pronouncing it with purity, and the art of public speaking, were settled in Edinburgh; and if at the same time a proper number of masters from the same country, duly qualified for teaching children the reading of English, should open schools in Edinburgh for that purpose." With this view they determined that a fund should be raised by contribution, and that the contributors, together with the members of the Select Society, should take the name of "The Society for promoting the reading and speaking of the English language in Scotland." A large body of directors was named, including Lord Auchinleck, Dr. Robertson, the Earl of Errol, the Earl of Eglinton, the Earl of Galloway, and the Earl of Elgin.

To benefit the nation by their example, they resolved that, from and after a given day, they themselves would all begin to speak English, according to the rules of grammar, and Sheridan's scale of progression—"tî-tùm or tùm-tî-tùm-tî."

According to all accounts, never since the confusion of tongues at Babel was there such an exhibition. Few persevered in the attempt more than twenty-four hours, and it was soon discovered that they might as well have petitioned Parliament for a law forbidding red hair, or high cheek-bones, in any part of Scotland!

The ridicule of what they had attempted, even prevented them from going on with educational measures, which might have been practicable and advantageous. "The Society for promoting the reading and speaking of the English Language in Scotland" did publish an advertisement in the "Edinburgh Courant and Caledonian Mercury," "that they had engaged Mr. Leigh, a person well qualified to teach the pronunciation of the English tongue with propriety and grace;" but here its labours ended. It immediately fell to pieces, and no such national scheme has since been attempted, although individuals have from time to time exposed themselves to a little laughter, and have materially injured their success in public life, by violently attempting to get rid of their Scotch accent, and to speak "High English."

° It is said, in Ritchie's Life of David Hume, in which there is a lively account of these vagaries, that Dr. Robertson ever after adhered to his resolution to speak English, and was successful in his language, although not in his intonation. But I have been told by my father, who enjoyed the familiarity and friendship of the historian, that, "al-

though he could write English better than any Englishman, in conversation he spoke broad Scotch without any attempt at disguise." This corresponds with the compliment paid to him in England, that "he must not expect to speak as well as to write English better than the English;" as well as with the solution Boswell gives of his silence

I have little more to relate of Wedderburn in his own country, except the share which he had in starting the original "EDINBURGH REVIEW." Unfortunately there was no Sydney Smith to give us graphically the history of this publication, as of its more distinguished and prosperous successor, which appeared under the same name just half a century later. Whether the projectors had any private bond of their association, such as—

"—— tenui musam meditamus avena;" P

and whether they tried to find a public motto from some ancient author whom they had never read,—will for ever remain unknown to the world.<sup>1</sup> All that is certain is, that some of the most eminent members of the "Select Society" resolved, in the beginning of 1755, to establish a Review on a new plan, to be published half-yearly, to contain criticism, chiefly upon works printed in Scotland, but with notices of others printed in England and on the Continent; the analyses of the works criticised and the dissertations to be introduced to be of a profounder and bolder character than those which appeared in the monthly publications to which reviewing in England had been confined. Wedderburn was the editor. Thus was the first number entitled,—

"The  
Edinburgh Review,  
Numb. I.

[To be published every six months].

Containing an account of all the BOOKS and PAMPHLETS that have been published in Scotland from the 1st of January to the 1st of July, 1755.

To each Number will be added an APPENDIX, giving an account of the Books published in England and other countries, that are most worthy of notice."

The PREFACE was by Wedderburn, and as this is almost the only literary composition which can be distinctly traced to him,

in society in London, that "he was afraid of falling into Scotticisms."

From my standing and long experience, perhaps I may be forgiven if I earnestly warn my young countrymen against "clipping the Queen's English." A Scotch accent, being often found in company with birth, education, and talent, is not vulgar, and it will in no degree impair the effect of eloquence either in the House of Commons or at the bar of the House of Lords. But Scotsmen do no justice to their powers when they hesitate about the pronunciation of a word; and,

after all, they are sure to make greater blunders than they avoid, for purity of accent to a Scotchman who continues domiciled in Scotland is utterly unattainable.

P "We cultivate literature upon a little oatmeal."

<sup>1</sup> The historiographer of the present Edinburgh Review says, "We took our present grave motto [Judex damnatur cum nocens absolvitur] from Publus Syrus, of whom none of us had, I am sure, ever read a single line."—*Preface to Sydney Smith's Works.*

there may be a general desire to peruse it. I own it seems to me to be a very promising specimen of his powers, and it may raise regret that he afterwards abandoned authorship in quest of fame more fleeting, if more flattering :—

“The design of this work is to lay before the public, from time to time, a view of the progressive state of learning in this country. The great number of performances of this nature which, for almost a century past, have appeared in every part of Europe where knowledge is held in esteem, sufficiently proves that they have been found useful.

“Upon the first revival of letters in Europe their progress in Scotland was very rapid and very remarkable. The force of Buchanan’s numbers, the elegance of his manner, and the undaunted spirit of liberty he breathes, entitle him to be named with the most chosen spirits of Leo X.’s age, and reflect a splendour upon the rise of science in the North. From such a beginning Scotland might well have flattered herself with hopes of attaining a distinguished rank in the literary world. But those happy prospects soon gave place to the melancholy scene of disorder and violence which civil dissensions produced. Letters could not be cultivated where humanity was neglected; the precepts of philosophy suited ill with the rage of party; nor could the arts of peace flourish in a country averse to industry and rent with divisions. Upon the accession of James VI. to the crown of England, the minds of men were entirely occupied with that event. The advancement of their own fortune became an object of attention to very many; whilst the general interest of their country was little regarded. The more unquiet it remained, the more influence would each individual share who had ambitious desires to gratify. Thus, unfortunately, private interest was opposed to the public good, and the improvement of Scotland was not at that time an agreeable idea to England, jealous and disgusted with the preference shown by the monarch to particular Scotsmen.

“From this state of languor and retardation in every species of improvement Scotland soon passed through a series of more dreadful evils. The devastations of Charles I.’s reign and the slavery of Cromwell’s usurpation were but ill repaired by the tyranny and oppression of Charles II.’s ministers and the arbitrary rule of James VII. Amidst all the gloom of those times there were still some men who kept alive the remains of science, and preserved the flame of genius from being altogether extinguished. At the Revolution, liberty was re-established and property rendered secure; the uncertainty and rigour of the law were corrected and softened; but the violence of parties was scarce abated, nor had industry yet taken place. What the Revolution had begun, the Union rendered more complete. The memory of our ancient state is not so much obliterated but that, by comparing the past with the present, we may clearly see the superior advantages we now enjoy, and readily discern from what source they flow. The communication of trade has awakened industry; the equal administration of laws produced

good manners ; and the watchful care of the government, seconded by the public spirit of some individuals, has excited, promoted, and encouraged a disposition to every species of improvement in the minds of a people naturally active and intelligent. If countries have their ages with respect to moral advancement and decline, North Britain may be considered in a state of early youth, guarded and supported by the more mature strength of her kindred country. If in any thing her advances have been such as to mark a more forward state, it is in science. The progress of knowledge depending more upon genius and application than upon any external circumstance, wherever these are not repressed they will exert themselves. The opportunities of education, and the ready means of acquiring knowledge in this country, with even a very moderate share of genius diffused through the nation, ought to make it distinguished for letters. Two considerable obstacles have long obstructed the progress of science. One is the difficulty of a proper expression of ideas in a country where there is either no standard of language, or, at least, one very remote. Some late instances, however, have discovered that this difficulty is not insurmountable ; and that a serious endeavour to conquer it may acquire, to one born on the north side of the Tweed, a correct and even an elegant style. Another obstacle arose from the slow advances that the country had made in the art of printing : no literary improvement can be carried far where the means of communication are defective : but this obstacle has been of late entirely removed ; and the reputation of the Scotch press is not confined to this country alone.

"It occurred to some gentlemen that at this period, when no very material difficulties remain to be conquered, a periodical view of the gradual advances of science would incite our youth to a more eager struggle to improve their minds, to gain distinction for themselves, and to do honour to their country. With this object the present work was undertaken,—in which it is proposed to *give a full account* of all books published in Scotland within the compass of half a year ; and to take some notice of such books published elsewhere as are most read in this country, or seem to have any peculiar title to public attention.

"These are the motives and the plan of the present undertaking : the execution of it the public must judge of. Those who are concerned in carrying it on, hope, if the public should ever judge unfavourably of the execution, they will not condemn the attempt. One may judge of other men's writings with talents much inferior to those of the author ; and to criticise is known to be easier than to compose. They are only to exercise over every book that right which the author confers upon the meanest of his readers ; they are to judge with candour, but with freedom ; opinions they are only to state, not to combat. Falsehood they will upon all occasions endeavour to detect : immoralities they would rather choose to bury in oblivion. Principles of irreligion or disaffection they will always strive to expose ; as a zeal for the religion and constitution of their country can never be inconsistent with the greatest candour. It will always be more agreeable to them to find occasion for

praise than for censure. But as their inclination leads them powerfully to indulge the one, their duty to the public will sometimes require them to exercise the less pleasing office. The authors expect no praise to themselves for a work in which to be useful is their only aim. In the conducting of it they hope they shall merit no personal blame. The success of the work they have earnestly at heart, as it may be attended with national benefit. To advance this end they will cheerfully accept the assistance of any gentleman who will contribute towards it by transmitting to the publisher his sentiments of any book ;—or in general any literary memoirs, criticisms, or observations he would wish to communicate to the world.”

Wedderburn contributed to the First Number one short article on the “ Rudiments of the Greek Tongue, by Mr. James Barclay, schoolmaster at Dalkeith,” in which he took occasion to pay a tribute of respect and gratitude to his old preceptor : “ A more plain and familiar Greek Grammar was certainly wanting. Mr. Barclay, to whose merit as a schoolmaster we are glad to bear testimony, has thought it his duty to endeavour to supply this want. It is his practice to teach his pupils Greek at a much earlier period than is usual in other places. The success of this method sufficiently appears in the progress several of his scholars have made, who frequently come from his school better Greek scholars than many of those who have been three years at an university.” The more prominent articles on Scotch publications were written by Robertson, Blair, and Jardine. The Appendix contained a criticism on Dr. Johnson’s Dictionary, by Adam Smith, strikingly displaying the profound philosophical knowledge of the formation of language possessed by this philosopher.\*

The first number of the EDINBURGH REVIEW was well received, and in January 1756 it was succeeded by a second, which had likewise an extensive sale. But, says Lord Kames, “ the censure they most justly bestowed on some fanatical preachers excited such an outcry, that a regard to the public tranquillity, and their own, determined the Reviewers to discontinue their labours.” I am rather at a loss to understand what articles are here referred to ; for all the discussions on theological subjects are conducted with such decency and propriety, that they could hardly have given offence to the most intolerant. Doubts are expressed in an article supposed, without any certain authority,

\* There was a great mystery observed for a long time respecting the authorship of the different articles, and, indeed, with respect to the names of all connected with the pub-

lication. For some reasons not explained, David Hume was not a contributor, and was not let into the secret.—*Lord Commissioner Adam’s Journal.*

to have been written by Wedderburn, as to the expediency of the University having expelled, and the Presbytery excommunicated, the author of an infidel publication,—but in the following becoming terms, which might have been used by the most pious father of the Church: “We are almost ashamed to say we have read this pamphlet. ’Tis such a low, scurrilous libel, that even the most necessitous printer or bookseller must be at a loss to find a decent excuse for publishing it. And, therefore, we hope our readers will excuse our giving any extract of such a thing as it is. We shall only add, that, in our opinion, both the University and Presbytery did wrong in taking so much notice of such a criminal; for it was impossible for them to inflict a more severe sentence than that to which he has brought himself, and from which ’tis not in their power to absolve him, viz. *Universal Contempt*.” From whatever cause, after the second number the Review was abandoned, and, notwithstanding the extreme modesty of the preface, the authors were probably a good deal disappointed in their hopes of deriving from it both fame and emolument.

Wedderburn’s successes and reverses equally fostered in him a growing discontent with his own country. When he considered the *éclat* which he had acquired from his oratorical powers, he was impatient to display them on a wider stage. Again, while he was restrained by prudence from exceeding his narrow income, he had a passion for expense and magnificence which he could never hope to gratify from the scanty fees of the Parliament House. He likewise fostered a lofty ambition which would be by no means satisfied by his becoming like his ancestors a “Senator of the College of Justice at Edinburgh.” Delighted to converse with Robertson, Hume, and Adam Smith, he was shocked by the prospect of spending his life among a people so bigoted and intolerant that they would not endure a publication undertaken to civilise and enlighten them, although it was conducted with perfect respect for religion, and with a laudable tenderness even for existing prejudices.

A melancholy event had dissolved the chief tie which attached him to his native country. On the 11th of August, 1756, his father died suddenly, when little turned of fifty, and with the prospect before him of long life. Next day appeared the following notice of this event in the “*Caledonian Mercury*,” supposed to be a tribute to his memory, in the midst of deep grief, from a pious son:

"Yesterday morning died here Peter Wedderburn, Esq., of Chesterhall, one of the Senators of the College of Justice; a man of ability, of integrity, and candour; whose disinterested benevolence and manly spirit was adorned rather than obscured by a remarkable degree of modesty. The universal and uncommon regret which his death has occasioned, proves, indeed, that true fame is the certain attendant of genuine worth; but also proves how seldom characters so truly excellent appear in the world. When he had reached a situation that rendered his services more conspicuous, and most extensively useful, he was removed from us by a death which seems untimely, on account of his early years, notwithstanding the public veneration for his virtues."

Wedderburn, however, still wanted courage to take the desperate leap which he had long meditated; and he went on prosecuting his profession in Scotland nearly a year after his father's death. He continued to be appointed a public examiner, an advocate for the poor, and a curator of the Faculty's Library. At the anniversary meeting of the curators, held on the 4th of January, 1757, "Mr. Alexander Wedderburn acquainted the Faculty that he had been authorised by David Hume, Esquire, to intimate to them his resignation of the office of their library keeper, and to assure them that he had, and would always retain, a due sense of the honour done him by the Faculty in conferring that office upon him; and being interrogated whether he had any commission to show from Mr. Hume for that purpose, answered that he had no commission in writing, which was thought not necessary, as Mr. Hume had this very day acquainted divers other members of the Faculty of that matter. The Faculty were of opinion that Mr. Hume should direct a letter to the dean or vice-dean, signifying the same, under his hand."\*

A letter was then written by Hume, containing a formal resignation of the office of librarian, which he had obtained with such difficulty, and which had been of such service to him in the composition of his History, but which he had for some time found irksome on account of disputes with some members of the Faculty in which it had involved him. The selection he made of an agent on this occasion shows the confidence he continued to repose in Wedderburn, as yet only in his 24th year.

But I suspect much that our advocate did not stand so high in the estimation of the W. S.'s and S. S. C.'s who had the distribution of briefs; and that, in spite of his solemn step, and

\* See Burton's Life of Hume.



grave deportment, unless when he pleaded for some "Peter Planestanes," suing *in forma pauperis*, he was generally silent before the Lords Ordinary and the Inner House.

Nevertheless, he might have remained at the Scotch Bar, meditating his great scheme of southern conquest till revolving years rendered the attempt impossible, had it not been for a scene which took place in the Parliament House towards the end of the summer session of this year, and which fixed his destiny. The leader of the Bar at that time was Mr. Lockhart, afterwards Dean of Faculty and Lord Covington, a man of learning, but of a demeanour harsh and overbearing. It had ever been considered the duty of the chiefs of the body of advocates, to be particularly kind and protecting to beginners; but Lockhart treated all who came in contact with him in a manner equally offensive, although he had been engaged in a personal altercation with a gentleman, out of court, who had threatened to inflict personal chastisement upon him; and there were some circumstances in his domestic life supposed to render his reputation vulnerable. At last four junior advocates, of whom Wedderburn was one, entered into a mutual engagement that he among them who first had the opportunity should resent the arrogance of the tyrant, and publicly insult him. It was by mere accident that the opportunity occurred to Wedderburn, who certainly made a good use of it.\*

In the very end of July or beginning of August, 1757 (the exact day I have not been able to ascertain),\* Wedderburn was opposed in the Inner House to Lockhart, and was called by him "a presumptuous boy," experiencing from him even more than his wonted rudeness and superciliousness. When the presumptuous boy came to reply, he delivered such a furious personal invective as never was before or since heard at the Scottish Bar. A lively impression still remains of its character; but newspaper-reporting was then unknown in Edinburgh, and oral

\* One of the most effectual interpositiona in favour of a junior was by old John Clerk, afterwards Lord Eldin. A presumptuous youth to whom he was opposed, and against whom the Court decided in a very peremptory manner, having declared that "he was much astonished at such a decision," there was a threat of committing him to the *tol-booth* for his contempt, when Clerk caused a universal laugh, in which the reverend sages of the law joined the loudest, by saying, "My Lords, if my young friend had known your Lordships as long as I have done, there

is no decision of your Lordships which could have astonished him!!!"

\* Letter to me from the ex-Lord Justice General HOPE.—He adds, "I do not now recollect the names of all the young men, but the late Sir Wm. Pultney, then Mr. Johnstone, was one of them."

\* I know that it must have been after the 26th of July, for on that day he was reappointed by the Faculty one of the Advocates for the poor—and it must have been before the 10th of August, when the summer session ended.

tradition has preserved only one sentence of that which probably was the meditated part of the harangue:—"The learned gentleman has confined himself on this occasion to vituperation; I do not say that he is capable of *reasoning*, but if *tears* would have answered his purpose I am sure tears would not have been wanting." Lockhart here started up and threatened him with vengeance. *Wedderburn*: "I care little, my Lords, for what may be said or done by a man who has been disgraced in his person and dishonoured in his bed." Lord President Craigie, being afterwards asked why he had not sooner interfered, answered, "Because *Wedderburn* made all the flesh creep on my bones." But at last his Lordship declared in a firm tone, that "this was language unbecoming an advocate and unbecoming a gentleman." *Wedderburn*, now in a state of such excitement as to have lost all sense of decorum and propriety, exclaimed that "his lordship had said as a judge what he could not justify as a gentleman." The President appealed to his brethren as to what was fit to be done,—who unanimously resolved that Mr. *Wedderburn* should retract his words and make an humble apology, on pain of deprivation. All of a sudden, *Wedderburn* seemed to have subdued his passion, and put on an air of deliberate coolness,—when, instead of the expected retraction and apology, he stripped off his gown, and, holding it in his hands before the judges, he said, "My Lords, I neither *retract* nor *apologise*, but I will save you the trouble of *deprivation*; there is my gown, and I will never wear it more;—*virtute me involvo*." He then coolly laid his gown upon the bar, made a low bow to the judges, and, before they had recovered from their amazement, he left the court, which he never again entered.

That very night he set off to London. I know not whether he had any apprehension of the steps which the judges might have taken to vindicate their dignity, or whether he was ashamed to meet his friends of the Parliament House; but he had formed a resolution, which he faithfully kept, to abandon his native country, and never more to revisit it.<sup>7</sup>

That I may conclude all that I have to say of him connected with Scotland, I may here notice that on the anniversary

<sup>7</sup> Lockhart was afterwards, at the age of seventy-five, promoted to the Bench, and (as it is said) on the recommendation of Lord Loughborough. He was a very useful Judge for some years. It is also said that Lord Loughborough gave a gown to Lord Polkem-

met as a compensation for having given him bad advice to try a cause, and appeal it to the House of Lords. *Ballie v. Tennant*, 17th June, 1766.—*Morrison*, 1491. This was more questionable, both in principle and in result.

meeting of the Faculty, on the 3rd of Jan. 1758, "It being represented that Mr. Alexander Wedderburn, a curator of the library, was now residing in London, and therefore that it would be proper to name some person in his room, the Faculty deferred to appoint a successor to him, until they should understand from himself whether he intended to return soon to this country, and appointed that Mr. Andrew Pringle, His Majesty's solicitor, the now senior curator, should write to Mr. Wedderburn for information on that matter." I suspect that no answer was returned; and that nevertheless a year of grace was allowed him; for, under date Jan. 2, 1759, there is the following entry in the minutes of the Faculty: "Mr. Alexander Wedderburn, one of the curators of the library, being now resident in London, and unable to attend to the duties of this office, Mr. Adam Fergusson is substituted in his room."

My own opinion is, that Wedderburn's exit from the Parliament House was unpremeditated. Many suppose, however, that it was contrived to give greater *éclat* to his change of destination. Lord Commissioner Adam says, "He always intended to quit Scotland, and pursue the profession in England; and he is believed to have taken that opportunity of showing his determination by stripping his gown from his shoulders and laying it on the bar." He himself was conscious that his conduct was wholly unjustifiable as regarded Lockhart, and still more as regarded the Lord President Craigie. "I lived," adds the Lord Commissioner, "in great intimacy with Lord Loughborough for very many years, and he never came upon this part of his life in Scotland. Mr. Lockhart's eldest son, a very sensible man, who was at the English Bar, received great attention from his lordship; and it always struck me that he had particular pleasure, from his natural kindness of disposition, in making amends for any wrong that had been done to the father."

## CHAPTER CLXIV.

CONTINUATION OF THE LIFE OF LORD LOUGHBOROUGH TILL HE BECAME  
A PATRIOT.

TRAVELLING by a heavy stage coach which carried six inside passengers—the swiftest public conveyance then known between the two capitals of Britain—Wedderburn reached his destination early in the morning of the sixth day after his departure from Edinburgh.<sup>2</sup> We are left to conjecture what his feelings were as the clumsy vehicle rattled down the High Street, whose lofty houses he was to behold no more—as he caught the last glimpse of Arthur's Seat, from which he had so often admired the beautiful environs of his “own romantic town”—as he crossed the bridge over the Tweed, and recollected that, however he might fare in his great adventure, there was no retreat for him—as, in the grey light of the last dawn that was to break upon him in his fatiguing journey, he descried from Highgate the towers of Westminster Abbey, near which was the scene of all his hopes and fears. He had given orders for his books to follow him by a Leith trader, and his wardrobe accompanied him in his portmanteau. These constituted the great bulk of his wealth, for his father had left Chesterhall burdened by debt to the full amount of its value, and his scanty earnings at the Scotch Bar had been insufficient to maintain him without the assistance of his family. But he brought with him not only brilliant talents and varied accomplishments, but an unconquerable resolution to justify to his friends and to the world the hazardous step which he was taking. He had screwed his courage to the sticking-place, and he could not fail.

He was set down at the Bull and Mouth Inn, behind St.

<sup>2</sup> When I first reached London I performed the same journey in three nights and two days, Mr. Palmer's mail coaches being then established; but this swift travelling was considered dangerous as well as wonderful,—and I was gravely advised to stop a day at York, “as several passengers who had

gone through without stopping had died of apoplexy from the rapidity of the motion.” The whole distance can now be accomplished with ease and safety in twelve hours, and intelligence may be communicated from the one capital to the other in as many seconds.

Paul's, and he remained quartered there for a few days, till he was lucky enough to be able to hire on moderate terms a small set of chambers in the Temple. The City was in the noisy bustle by which it is characterised at all seasons of the year; but beyond Charing Cross he found shutters all closed, and grass beginning to grow in the streets. However, he little regretted the absence of gay company, for he was eager to devote himself day and night to the preparation for his call to the English Bar. Dr. Clephane was in town, and received him kindly; but he now seldom indulged in a visit to the old physician, who, although of a highly cultivated understanding and agreeable manners, had been born in the county of Fife, and spoke in a Scottish dialect peculiarly broad and drawling. Wedderburn's desire to purify his own accent had grown into a passion, and for this purpose there was no exertion or privation to which he was not willing to submit. Scotchmen he long avoided, as if he had been afraid of some contagious disease by shaking hands with them.

To his great delight he found that Sheridan, in whose *tum-ti-tum* he still placed entire confidence, was in London, negotiating an engagement on the stage, and superintending the publication of his "Lectures on Elocution." The old gentleman was much flattered by the homage he received from the Scotch advocate, whom he had seen holding such a high position at Edinburgh,—and, in consideration of this rather than of the pecuniary compensation offered to him, agreed to take him as a pupil, and to give up to him the greatest portion of his time. Sheridan came daily to the Temple at an early hour in the morning, and, with a short interval for breakfast, they continued talking, reading, reciting, and declaiming together during the greater part of the day. It being now the depth of the long vacation, they were in little danger of disturbing any student by their loudest tones. In the evenings, when left alone, Wedderburn would open Blackstone and Lord Coke; but such studies excited little interest comparatively in his mind; and when he sunk to sleep, instead of arguing in his dreams a case before Lord Mansfield on a contingent remainder, he conceived himself repeating Antony's speech over the dead body of Cæsar, under the correction of his master,—or actually making an attack on a public delinquent, in the House of Commons, amidst the cheers of his audience. He never had the advantage of being pupil with a conveyancer, special pleader, or equity draughts-

man. He would have been pleased to attend a course of lectures on the municipal law of England, but none were delivered.

In the middle of October Sheridan was obliged to go over to Ireland on some theatrical business, and his place was supplied by Macklin. This great actor and dramatist had not yet distinguished himself by his abuse of the Scottish nation, and he professed himself much taken by the sprightly manners and conversation of Wedderburn, to whom he had been introduced by Smollett. He was too much occupied to devote so much time to him as Sheridan had done; but he was more useful in modelling cadences, and regulating action. Under these two instructors Wedderburn continued to practise alternately, and sometimes under both on the same day, for many months,—till by degrees a great change was worked upon his accent and delivery.

Mr. Croker, in his edition of Boswell, naturally enough observes: "This is an odd coincidence. A Scotchman who wishes to learn a pure English pronunciation employs one preceptor who happens to be an Irishman, and afterwards another, likewise an Irishman; and this Irish-taught Scot becomes (and mainly by his oratory) one of the chief ornaments of the English senate, and the first subject in the British empire." It is very doubtful whether Garrick or Kemble would have succeeded better than the two Hibernians.—We must likewise recollect that they introduced their pupil to their histrionic associates, and that he became a frequenter of the Green-Room, where he could advantageously practise some of the rules they had laid down for him. Through these means the effect of Wedderburn's eloquence ceased to be at all impaired by pronunciation; and his vicious manner became polished and impressive. But still there never flowed from him a natural stream of eloquence; he always seemed studying how he could give most effect to his expressions, and, unless when he was occasionally impassioned, his manner was precise and affected. While his transformation was at all events gratifying to his vanity, there may be some doubt how far it was the foundation, as is generally supposed, of his good fortune; for his old schoolfellow Harry Dundas, who took no thought about such things, and ever continued to talk as broad Scotch as when they were under the discipline of Mr. Barclay at Dalkeith, was listened to with equal favour in the House of Commons, and enjoyed more power and influence in the State—having been for many

years king of Scotland, and having guided with the younger Pitt the destinies of the empire.<sup>a</sup>

It is said that in the decline of life Wedderburn's Scotticisms and vernacular tones returned, showing that all the while his "English" was the effect of constant effort, which could not continue when his attention was relaxed, and his powers were enfeebled.<sup>b</sup>

He had only one additional term to keep, to complete his curriculum of English juridical study; and having eaten five more dinners in the Hall,—on the 25th of November, 1757, he was called to the English Bar.<sup>c</sup> Next day he put on his bombasin gown, his cambric band, and his well-powdered wig, and took the oaths of allegiance, supremacy, and abjuration, in the Court of King's Bench.

It is difficult to conjecture by what process he expected to get forward in the profession, and he probably trusted a good deal to fortune and accident. The system of periodical publication of law reports had not then begun, and the composition of law books by young men as a proof of proficiency, was not thought of. Quarter Sessions were rarely attended by barristers; and Wedderburn had so little interest in any part of England, that, out of economy, he resolved not to go any circuit. Lord Mansfield, his countryman, to whom he had been introduced, favoured only Westminster and Churchmen, and he had not the slightest acquaintance with any other Judge on the Bench. To all English attorneys and solicitors he was wholly unknown, and he by no means possessed the acquaintance with practice and pleading which might induce them in their difficulties to resort to a stranger.

<sup>a</sup> The following is Boswell's estimate upon this subject:—"Mr. Macklin indeed shared with Mr. Sheridan the honour of instructing Mr. Wedderburn; and though it was too late in life for a Caledonian to acquire the genuine English cadence, yet so successful were Mr. Wedderburn's instructors and his own unabating endeavours, that he got rid of the coarse part of his Scotch accent, retaining only as much of the 'native wood-note wild' as to mark his country, which if any Scotchman should affect to forget, I should heartily despise him. Notwithstanding the difficulties which are to be encountered by those who have not had the advantage of an English education, he by degrees formed a mode of speaking to which Englishmen do not deny the praise of elegance. Hence his distin-

guished oratory, which he exerted in his own country as an advocate in the Court of Session and a ruling Elder of the *Kirk*, has had its fame and ample reward in much higher spheres. When I look back on this noble person at Edinburgh, in situations so unworthy of his brilliant powers, and behold Lord Loughborough at London, the change seems almost like one of the metamorphoses in Ovid; and as his two preceptors, by refining his utterance, gave currency to his talents, we may say in the words of that poet, '*Nam vos mutastis.*'"—I Boswell, p. 365.

<sup>b</sup> Lord Brougham's "Statesmen," vol. 1, p. 72.

<sup>c</sup> Books of Inner Temple.

He expected some encouragement from the Scotch agents before the House of Lords for retainers in Scotch appeals, and he had an extensive Scotch connection in London, from which briefs might be expected. His sister had married Sir Harry Erskine, an intimate friend of Lord Bute; there was hardly any prosperous Scotchman in London whom he could not influence, and being the only Scotchman at the English Bar, if he could once show that he was likely to rise, he had good hopes from the nationality of his countrymen.

He was regular in his attendance in the Court of King's Bench in the morning, but did not shut himself up in chambers in the evening. He went a good deal into society, and was frequently to be seen at the theatre. But in reality he was more actuated by a love of business than by a love of pleasure. Circumstanced as he was,

"To shun delights, and live laborious days,"

did not seem to be the discreet course. He was to make friends who were to push him on. His system was to recommend himself rather by being a good listener than a great talker. We have the following picture of his modest demeanour in company at this time in the Autobiography of Richard Cumberland:—

"The play of the 'Wishes,' under the auspices of Lord Bute, was privately rehearsed at Lord Melcombe's villa of La Trappe. It was a beautiful summer evening when it was recited on the banks of the Thames by O'Brien, Miss Elliott, Mrs. Haughton, and some few others, under the management of Foote and Murphy, who attended on the occasion. At this rehearsal there was present a youth, unknown to fame, who was understood to be protected by Lord Bute, and came thither in a hackney coach with Mrs. Haughton. This gentleman was of the party at the supper with which the entertainment concluded: he modestly resigned the conversation to those who were more disposed to carry it on, whilst it was only in the contemplation of an intelligent countenance that we could form any conjecture as to that extraordinary gift of genius which, in course of time, advanced him to the great seal of the kingdom and the earldom of Roslyn."

To strengthen himself Wedderburn now established a club  
A.D. 1757— somewhat on the plan of the "Poker." This at first  
1760. consisted of the most distinguished Scotsmen then residing in London,—Smollett, Armstrong, Pitcairn, William Hunter, John Home (now wearing a brown coat), Sir Gilbert Elliot, Mr. Robert Adam, the architect, and Sir Harry Erskine.



They met at the "British Coffee House," in Cockspur Street, ever a favourite Scottish haunt, and then kept by a very clever lady, Mrs. Anderson, sister of Douglas, Bishop of Salisbury. Garrick and several celebrated Englishmen were afterwards admitted. They all felt a lively interest in the progress of "brother Wedderburn," and looked out for opportunities to recommend him to a brief. When the occasion required, he was capable of the most intense application, and he could submit to any sacrifice. He was ever cautious to avoid the example of Murphy and other legal friends, who by a love of literature and the drama had been led astray from their professional career. He had little respect for authorship, and he would sooner have been Lord Hardwicke than Shakspeare.

About the means he used to procure employment he seems to have been by no means over-delicate. His countryman Strahan, the printer, now rode in a coach, and had much to say with the City attorneys. Wedderburn without scruple applied to him for his interest to get briefs in causes at Guildhall,—and with some effect. Strahan having afterwards mentioned this circumstance in the presence of Dr. Johnson and Boswell, the question was discussed "how far it is allowable for a barrister to canvass for business." Johnson rather defended the practice, saying, "I should not solicit employment as a lawyer,—not because I should think it wrong,—but because I should disdain it."

Professional etiquette has been carried to a ridiculous extent,—as in forbidding a barrister on the circuit to dine with an attorney, or to dance with an attorney's daughter—whereas the attorney is often a gentleman as well born, as well educated, and as well mannered as the barrister. But the respectability of our order,—consequently, the public good,—peremptorily requires that all solicitation of business by barristers should be forbidden, and that all indirect means to obtain it should be considered discreditable. There is a useful *surveillance* exercised on the circuits by means of the GRAND COURT, whereby such practices are repressed; and it would be highly beneficial if we had in London a DEAN OF FACULTY, with a council to lay down and enforce salutary rules of discipline for preventing or punishing irregularities among members of the Bar, that merit may enjoy its fair chance of success.

Wedderburn, notwithstanding all his good and evil arts, never seems to have had a regular set of clients, or a steady

flow of business, while he remained in a stuff gown. He was employed at intervals, in cases in which a "splash" was to be made,—particularly where actors and authors were the parties. Newspapers began occasionally to notice trials of public interest, although there were no daily reports of "Law proceedings," and Wedderburn's name appeared more frequently in print than that of others who, in truth, were going on much more steadily and successfully. Doctor Robertson, misled by this circumstance, in a visit he made to London in 1759, wrote as follows to his friend, Dr. Jardine:—"Wedderburn makes all the progress we could wish: even the doorkeeper of the House of Peers tells me 'he is a d—d clever fellow, and speaks devilish good English.' This very morning he was retained in a Plantation cause, before the Privy Council, which is a thing altogether extraordinary for so young a man. You cannot imagine what odd fellows his rivals are, and how far, and how fast, he is likely to go."

But Wedderburn's fee-book did not present a flattering result; there was little chance of his getting on at the Bar by rising professional reputation, and he concluded that it was only through politics that he could hope for legal preferment. For the first three years of his residence in England party struggles had entirely ceased,—there was hardly a division in either house of parliament in a whole session,—and it seemed as if never again would there be any scope for adventure in courtiership or patriotism. To our keen-eyed Scotchman, however, "coming events cast their shadows before." George II., though in good health, had reached a great age. Lord Bute, on very intimate terms with the Princess Dowager of Wales, was supposed to enjoy a great influence over the heir-apparent to the throne, and had instilled into his mind principles of government which, when acted upon, were sure to bring about a complete change in the aspect of public affairs. The embryo minister had been a member of the "Select Society" at Edinburgh, and had taken much notice of our *débutant* from the time when he was called to the English Bar, not only introducing him into fashionable London Society, but confidentially conversing with him respecting the plans and prospects of Leicester House.

On the 25th of October, 1760, it was announced that the old King was no more, and a sudden joy was infused into the minds of all those who had looked forward with impatience to a new reign. The multitude believed that there would be

no change in the public councils, and that Pitt, who had so raised the national glory, might continue to hold the reins of government as long as Sir Robert Walpole; but the initiated knew that a scheme had been laid to break down the Whig aristocracy, which for half a century had monopolised all the favours of the crown; to encourage the doctrine of divine hereditary right, and to rule on the genuine Church-and-King maxims which had been thought incompatible with the title of the Hanoverian dynasty.

The favourite's dependants enjoyed the satisfaction of seeing him first sworn a privy councillor, then made <sup>March 25,</sup> secretary of state, and, finally, placed at the head of <sup>1761.</sup> the Treasury, and declared prime minister. Neither upon the present nor any subsequent turn of his fortune <sup>May 2,</sup> was Wedderburn at all troubled by political qualms, <sup>1762.</sup>—and with an unclouded mind he only considered what course was most for his own advantage. He belonged to a Whig race, and he would never in his own country join any of the clubs who, on their knees, drank to “the King over the water,”—although a majority of the advocates retained the same Jacobitical opinions which animated them when they so graciously received the medal from the Duchess of Gordon, with the motto “*Suum cuique tribuito.*” He was now willing to think that not only was it improper to exclude one great party in the state from the participation of power and patronage, but that the right of the people to interfere in the affairs of government had been pushed to an inconvenient length from the necessity of guarding against a Popish ruler,—and that when Protestantism was at last secure under a monarch who wished to show himself truly the “Defender of the Faith” by refusing civil privileges to all who did not belong to the established religion of the country, the time was come when popular licentiousness might be repressed, and the people, ever incapable of governing themselves, might be governed by that prerogative which, for their benefit, God had bestowed upon his vicegerent the King. He therefore professed himself a warm partisan of Lord Bute, and by his influence was returned to the House of Commons for the Rothsay and Inverary district of Scotch burghs.<sup>d</sup>

From the very defective account we have of parliamentary proceedings at this period, we are left in almost entire ignorance of Wedderburn's early parliamentary career. We know

<sup>d</sup> Journals, 12th Parliament of Great Britain.

that he was a steady voter, and a frequent speaker, in support of Lord Bute while that minister remained in office and as long as there was any chance of his return to power.\* He braved all the fury of the storm which burst out against his nation, and joined in the resolution "that the North Briton,

A.D. 1763. No. 45, should be burnt by the hands of the common hangman." He had the mortification to see his friend and preceptor Macklin pandering to the bad passions of the English mob by bringing Sir Archy Macsarcasm and Sir Pertinax Macsycophant on the stage, with some touches of character which he was supposed to have taken from Wedderburn himself. It is said that Wedderburn tried to retaliate in the periodical publications of the day, and that he was particularly severe in exposing the irregularities of the profligate Churchill, who, in his "Prophecy of Famine," had with great felicity ridiculed the pride and poverty of the Scotch;† but I have been unable to learn any particulars of this warfare which he carried on, to justify the national motto—"Nemo me impune lacessit."<sup>‡</sup>

There seems much probability in the story of his personal quarrel with Churchill, from the savage manner in which he is assailed in the "Rosciad":—

"Roscius deceased, each high-aspiring player  
Push'd all his interest for the vacant chair."

Wedderburn is introduced to us as counsel for Murphy:—

\* The only information I can find of any particular debate in which he took part, is in a letter signed Clio, published in the Morning Post in the year 1775:—"He once entered the lists with Mr. Pitt, under Lord Bute's administration, upon the subject of general warrants, by producing one of that Minister's for seizing a ship. Wedderburn asked with great triumph if martial law existed on the river? Pitt, amidst a blaze of indignant eloquence, asked, if the great Statute of Treasons there existed? defended himself with becoming spirit, and ran down the Scotchman beyond the possibility of a reply."

† I know few finer efforts of *imagination* than his description of Scotland in the "Prophecy of Famine," beginning—

"Far as the eye could reach no tree was  
seen,  
Earth clad in russet scorn'd the lively  
green;

No living thing, whate'er its food, feasts  
there,  
But the Cameleon who can feast on air;  
No birds, except as birds of passage,  
flew,  
No bee was known to hum, no dove to  
coo."

‡ Generally speaking, the Scotch in London at this time a little resented as provoked the persecution excited against them. The state of the public mind is described in a lively manner by Hume, in a letter to Robertson, dated 14th January 1765. "The rage and prejudice of parties frighten me; and above all, this rage against the Scots, which is so dishonourable, and, indeed, so infamous to the English nation. We hear that it increases every day, without the least appearance of provocation on our part. It has frequently made me resolve never in my life to set foot on English ground."

"To mischief train'd, e'en from his mother's womb,  
Grown old in fraud, though yet in manhood's bloom,  
Adopting arts by which gay villains rise  
And reach the heights which honest men despise,  
Mute at the bar, and in the senate loud,  
Dull 'mongst the dullest, proudest of the proud,  
A pert prim prater of the Northern race,  
Guilt in his heart and famine in his face,  
Stood forth; and thrice he waved his lily hand,  
And thrice he twirl'd his tye—thrice stroked his band;—  
'At friendship's call' (thus oft, with trait'rous aim,  
Men void of faith usurp faith's sacred name),  
'At friendship's call I come, by Murphy sent,  
Who thus by me develops his intent.' "

Meanwhile Wedderburn reaped the first reward of his party zeal by obtaining a silk gown—then a high distinction. He immediately communicated the good news to his mother at Edinburgh in the following letter, which shows the great difficulty he had to give the old lady a notion of the nature of his new office :—

"Lincoln's Inn, Feby. 18th, 1763.<sup>h</sup>

"DEAR MAMMA,

"You will not be sorry to hear that I have kissed his Majesty's hand for a preferment which the newspapers had bestowed upon me long ago. It is an honour which may be of considerable service to me hereafter, though attended with no present profit. But it is what I wished for extremely, and I feel myself under the highest obligations to the Chancellor for this instance of his protection and goodness to me.

"I can't very well explain to you the nature of my preferment, but it is what most people at the bar are very desirous of, and yet most people run a hazard of losing money by it. I can scarcely expect any advantage from it for some time equal to what I give up,—and, notwithstanding, I am extremely happy, and esteem myself very fortunate in having obtained it.

"I am sure it will give great pleasure to my aunt and you, to know of my having met with any good fortune—and I ever am,

"Your dutiful and affectionate son,

"AL. WEDDERBURN."<sup>i</sup>

I now reach a passage of his history which shocks us lawyers excessively, although its enormity may not be so palpable to the "*lay gents*,"—the uninitiated. He had never yet gone any circuit, and no rule can be better established among

<sup>h</sup> He had some time before transferred himself to Lincoln's Inn, for the convenience of occupying chambers there, and he was at

this time elected a Bencher of that Society.  
<sup>i</sup> Ross. MSS.

us than that a barrister is not for the first time to join a circuit having already acquired a great professional reputation whereby he may at once step into full business, and suddenly disturb vested rights. For this reason a barrister may only change his circuit once, and this must be done (if at all) while he is still "clothed in stuff." The penalty for the transgression of such a rule is, that the offender is excluded from the Bar-mess on the circuit; and although he cannot be prevented from appearing in Court and pleading a cause for any client who may employ him, no other barrister will hold a brief with him, and he is "sent to Coventry."

The spirit, if not the letter, of this law was now flagrantly broken by Wedderburn. Sir Fletcher Norton, long "the cock of the walk," had just left the Northern Circuit on being made Attorney-General, and had given up an immense quantity of business to be struggled for. There were various speculations as to the manner in which it would be distributed among his juniors, who had long been impatient for his death or promotion—when the incredible report was spread, that Mr. Wedderburn with his new silk gown meant to join the Northern Circuit, in the hope of stepping into the lead. This was not believed till he actually made his appearance at York. The horror of the barristers was then much enhanced by the intelligence, that he was attended, as clerk, by the late clerk of Sir Fletcher Norton, well acquainted with every attorney north of Trent. He did not boldly set professional etiquette entirely at defiance, but in vain tried to justify himself by contending, "that never yet having gone any circuit, he could not be within the regulation against changing circuits—that every man called to the Bar had a free right to choose a circuit—and that no attempt had ever before been made to limit the time within which the choice must be exercised." An extraordinary meeting of the Northern Circuit Bar was immediately called, when it was moved, that no member of it should hold a brief with the interloper. If this had been carried unanimously, he must have packed up his wig and his silk gown and instantly returned to London. He was saved by there being one dissentient, although one only. This was Wallace, afterwards Attorney-General—then a hard-headed special pleader—who pretended to take the liberal side of the question, but was suspected of being sordidly actuated by a desire to promote his own interest—anticipating that Wedderburn's reputation must bring him briefs, and that he himself

would always be retained as his junior.<sup>k</sup> The new silk gown was accordingly tried in several important causes; but though he could make an exceedingly good statement of the facts of the case, he was defective, from inexperience, in the examination of witnesses—on which the verdict often depends, much more than on the figures of rhetoric,—and, notwithstanding the cramming he underwent at consultation, he was evidently distressed when an important point of law unexpectedly arose during the trial. There was too much foundation for Jack Lee's saying, circulated with much complacency—that “what little law Wedderburn took in at York had run through him before he got to Newcastle.” In short, this bold manœuvre proved a failure, and after one or two years he gave up the circuit, under the pretence that it interfered with his business in London; although Scott, afterwards Lord Eldon, and other Equity practitioners, continued long after to attend the assizes.

In the Court of Chancery, nevertheless, Wedderburn now took root and flourished. Here he was much more at home than in conducting *nisi prius* causes: the forms of proceeding were more analogous to those he had been accustomed to in Scotland, where facts were decided by the judges on written depositions,—and his superior knowledge of the civil law sometimes gave him a formidable advantage over his rivals.

He still continued, occasionally, to frequent the theatre, and to mix with authors and actors in the Green Room; and he kept up a close correspondence with his absent literary friends. The following epistle, which is addressed to him by David Hume, gives a very interesting view of French manners, and of the intoxicating effect upon the philosopher of the incense offered up to him by the Parisians:—

“MY DEAR SIR,

“I believe I shall write you a very short letter, and yet have a great deal to say. I have not absolutely leisure to look about me: what between business and company, what between receiving and returning civilities, between the commerce of the great and the learned, it is scarce possible for me to think of an absent friend.” . . .

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<sup>k</sup> Wedderburn himself told Lord Haddington that, finding the opposition made to him on the Northern Circuit, “he challenged two of the senior counsel, and then there was an end of it:” but I do not find any other account of these challenges. From the records of the Grand Court of the Northern

Circuit which I have since had an opportunity of inspecting, it appears that Wedderburn, although at first so roughly received, afterwards had ingratiated himself with his brother circuiters, and joined them in all their revelry.

[After enumerating some books he had purchased for Mr. W. and forwarded to London, he proceeds.]

"I reconcile myself daily to this course of life, and nothing leads more to familiarise me to a scene so different from that to which I had so long been accustomed, than the amiable manners and the cordial friendship of the family with whom I live. I find, likewise, the use of the French tongue gradually returns to me, though I am still somewhat awkward in returning a compliment. The scene which passed to-day really pleased without embarrassing me. I attended Lord Hertford to Versailles in order to be presented to the Dauphiness and the young Princes, the only part of the royal family whom we had not yet seen. When I was presented to the Duc de Berry, a child of ten years of age, he said to me, 'Monsieur, vous avez beaucoup de réputation dans ce pays-ci: votre nom m'est très-bien connu; et c'est avec beaucoup de plaisir que je vous vois.' Immediately upon which his brother the Comte de Provence, who is two years younger, advanced to me and said, with great presence of mind, 'Monsieur, il y a longtemps que vous êtes attendu dans ce pays-ci avec beaucoup d'impatience: je compte avoir bien du plaisir quand je pourrai lire votre belle histoire.' But what is more remarkable, when we were carry'd to make our bows to the Comte d'Artois, who is about five years of age, and to a young Madame of between two and three, the infant Prince likewise advanced to me in order to make me his harangue, in which, though it was not very distinct, I heard him mumble the word *Histoire*, and some other terms of panegyric. With him ended the civilities of the royal family of France towards me; and I may say it did not end till their power of speech failed them: for the Princess was too young to be able to articulate a compliment. You may see, by this instance alone, what you could not fail to remark in many other instances, how much greater honour is paid to Letters in France than in England. I do not mean with regard to me alone, whom some factious barbarians, under the appellation of Whigs, are fond to decry; but with regard to every other person. And the effects are visible by the different state of Letters in the two countries.

"I am, dear Wedderburn,

"Your's sincerely,

"Paris, 23rd Nov. 1763.

"DAVID HUME.

"P.S. I daily reconcile myself more to this place, and expect soon to be a Parisian. I have so often changed my places of abode, that I am come to think that, as far as regards happiness, there is no great difference among them. But yet, if there is a preference to be given, this city seems entitled to it."<sup>m</sup>

Notwithstanding Wedderburn's success as an Equity counsel, he looked to politics as his main stay; and, strange to relate—incredible it must long have ap-

A.D. 1763—  
1763.

<sup>m</sup> Rossi. MSS.



peared to his old associates, and particularly to David Hume, who was talking with such bitter contempt of the Whigs—he now became a flaming patriot. He perceived the imbecility and caducity of the several administrations which followed the downfall of Lord Bute, and, instead of attaching himself to any of them, he thought it better policy to go into hot opposition—to censure the measures which were taken respecting the taxation of America, and to insist that the constitution was violated by the persecution of Wilkes,—all whose abuse of Scotland and Scotsmen he now charitably forgave. Still his policy was only “*reculer pour mieux sauter.*” When George Grenville had quarrelled with the Court, Wedderburn at times affected to consider him as his leader, and he occasionally coquetted with Lord Chatham; but he evidently looked all along to a reconciliation with the “King’s friends” on the first favourable opportunity; his present patriotism was, by showing his consequence, to raise his price, and he cautiously abstained from entering into any party engagement which might embarrass him or expose him to the charge of private treachery, when the fit moment for his going over should arrive.<sup>a</sup>

As is usually the case, his reputation as a debater rose very much when, instead of speaking or being silent according to the orders of a leader, and if called <sup>A.D. 1769.</sup> upon to defend and abuse he could only urge the topics prescribed to him, he was at liberty to assail the government when and how he chose. The *éclat* he acquired in St. Stephen’s operated very beneficially on his Bar practice. Though opposed to such a formidable rival as Thurlow, he had a considerable ascendancy in the Court of Chancery; he was employed in almost every Scotch appeal at the bar of the House of Lords, and he was the decided favourite at the Cockpit. He was counsel for the respondent in the famous Douglas cause, which was admirably adapted to his peculiar powers. Accordingly he here outshone all his competitors. Charles Fox often declared that “Wedderburn’s speech on

<sup>a</sup> We shall never know the steps by which from being an Ultra-Tory he became “a Whig and something more.” Parliamentary reporting had ceased, or rather had been suppressed, at this time, and we know nothing of parliamentary proceedings except from private letters. In a letter from Mr. Cooke to Lord Chatham, dated 17th Dec.

1765, giving an account of a debate on the right to tax America, the writer says,—“Mr. Wedderburn acted like a true Scotchman,” which, in the language of that day, meant *most basely*; and it would appear that even then he had hopes of pleasing the Court by subserviency. He was still member for Rothsay.

this occasion was the very best he ever heard on any subject;” and Horace Walpole, in his *Memoirs of the Reign of George III.*, says, “Mr. Alexander Wedderburn (for the Hamiltons) spoke with greater applause than was almost ever known.”<sup>o</sup> But not a scrap of his speech is extant, and we read of it as of a great performance by Garrick on the stage, remembered only by the admiration which it excited. The judgment of the House of Lords, it is well known, was against him—the decree of the Court of Session declaring the claimant to be spurious, being reversed—with some strong observations from law lords on the conduct of Andrew Stuart, the agent for the Duke of Hamilton, the respondent. There is preserved to us a letter to this gentleman from Wedderburn, very creditable to the writer, as it shows more heartiness and disregard of giving offence to those who might injure him than he usually indulged in:—

“MY DEAR STUART,

“I have read over the newspaper account of the Chancellor’s<sup>p</sup> speech in the Douglas cause, which, in my opinion, he has more reason to be offended with than you have. It is the publication of one who had only capacity enough to retain those parts of the speech which I am persuaded the Chancellor would wish to be least remembered.<sup>q</sup> Nothing ever was worse founded than any aspersions upon your conduct in that cause, which in its whole progress was carried on, not only with the strictest probity on your part, but with a candour and delicacy that very few men would have thought themselves bound to observe. I have more than once thought, in the course of the inquiry, that you acted with too nice a sense of honour in a contention with people who made no scruple to take every advantage, though I respected the principle on which it proceeded. It was impossible you could escape abuse (let your conduct be ever so correct) at a time when, for much less interests, all characters are daily traduced, and personal invective is become a standing mode of argument. I am sorry, upon their own account, that it should be adopted by those who having felt what calumny is should be cautious how they give a sanction to it. Upon your account I feel very little anxiety; because, besides the testimony of your own mind, you have the satisfaction to know that all those who have been eye-witnesses of your conduct, not only justify it, but applaud it; that of the many judicious people who have studied the cause, very few indeed join in the reflections upon you; and that even your adversaries do your conduct that justice in private, which in public they have sacrificed to the interests of their cause. They have succeeded, and the decision must

<sup>o</sup> P. 302.

<sup>p</sup> Lord Camden.

Chief Justice Tenterden, with great *naïveté*,

<sup>q</sup> This is, no doubt, malice prepossessed; but I once heard a *wise* Judge say to Lord

“What nonsense the newspapers do make you talk!”

compel your submission ; but assent can only flow from conviction ; and the opinion I had entertained of the cause is not altered by any reasoning I have heard upon it. My ideas of justice are a little perplexed by the decision ; and I consider it as a striking example that no cause is certain or desperate. You will probably be gone from London before I return to it, and I could not help writing to you, as I shall not have an opportunity for some time of meeting you. Adieu, my dear Stuart, and believe me ever

“ Yours most sincerely,

“ A. WEDDERBURN.”

His forensic reputation now repaid what it had borrowed from his parliamentary, and his weight in the House of Commons was much enhanced. He expected some tempting offer from the Court ; but none being made, he resolved—keeping himself disentangled from any express party engagements—to go for a season into the hottest opposition.

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## CHAPTER CLXV.

### CONTINUATION OF THE LIFE OF LORD LOUGHBOROUGH TILL HE WAS MADE SOLICITOR-GENERAL.

Soon after came on the grand debate in the House of Commons on the resolutions for declaring Mr. Wilkes Mar. 1769. disqualified to be re-elected a member of the House of Commons in consequence of his expulsion, and for seating Luttrell as member for Middlesex, although he had only 296 votes against 1143. Wedderburn, taking the popular

† There is a curious letter on the subject of the Douglas cause from David Hume to Dr. Blair—to be accounted for from the philosopher's friendship for Wedderburn and Stuart :—

“ 28 March, 1769.

“ I was struck with a very sensible indignation at the decision of the Douglas cause, though I foresaw it for some time. It was abominable with regard to poor Andrew Stuart, who had conducted that cause with singular ability and integrity, and was at last exposed to reproach, which unfortunately never can be wiped off. For the

cause, though not in the least intricate, is so complicated, that it never will be revered by the public, who are besides perfectly pleased with the sentence, being swayed by compassion and a few popular topics. To one who understands the cause as I do, nothing could appear more scandalous than the pleadings of the two law lords. Such gross misrepresentation, such impudent assertions, such groundless imputations, never came from that place. But all was good enough for their audience, who, bating their quality, are most of them little better than their brethren the Wilkites in the streets.”

side, seems to have made an admirable speech. The "Parliamentary History" does not even notice his name as having spoken; but, according to Sir Henry Cavendish, he reasoned thus:—

"The question comes to this, was the person for whom the majority of electors voted, legally disqualified? He is, we are told, by a vote of this House. But has such a vote the force of law? that is the point. If it has not, it may control our own proceedings, but it will not have the effect that the votes given for Mr. Wilkes are thrown away. The position laid down is, that a vote of the House of Commons is law. My learned friend says, that it imports a common law disqualification. If it does, by the usage of Parliament, as part of the common law, you can prove it to me; you can show me precedents, you can quote authorities, or succeed by deductions of reason; but in support of such a monstrous proposition we have had neither precedents, nor authorities, nor arguments."<sup>\*</sup>

Earl Temple, in giving Lord Chatham a brief abstract of the debate, says, "Not a shadow of argument in favour of the disqualification! Wedderburn made a most excellent speech with us. It has cost his seat in Parliament, which he has this day vacated in consequence of Sir Lawrence Dundas's reproaches and desire, from what I think too generous a delicacy."<sup>†</sup>

Representing the close borough of Richmond, for which he had been returned by its owner, as a Tory, at the general election in April, 1768,—according to the notions which prevailed, and were almost invariably acted upon in the good old times, he would have incurred great disgrace if he had retained his seat. Next morning he applied for and obtained the Chiltern Hundreds.<sup>‡</sup> Now he was looked upon as a martyr, although in reality not more of a Wilkite than Wilkes himself. A dinner was given to him at the Thatched House Tavern by the Opposition leaders, including George Grenville, Edmund Burke, Lord John Cavendish, Tommy Townshend, Lord Clive, Lord George Sackville, Sir George Savile, Alderman Beckford, and Colonel Barré. They drank his health with three times three, under the title of "THE STEWARD OF THE CHILTERN HUNDREDS;" and he made a very inflammatory reply, denouncing in no measured terms the usurpation of the rights of the people by their own representatives, and concluding with this oath of abjuration suitably

<sup>\*</sup> Cavendish Deb., i. 552.

<sup>†</sup> Chatham Correspondence.

<sup>‡</sup> A new writ was moved for Richmond 9th May, 1769. 32 Com. Jour. 452.

taken by him on receiving an office from the Crown, for which he had vacated his seat: "I do from my soul denounce, detest, and abjure as unconstitutional and illegal, that damnable doctrine and position, that a resolution of the House of Commons can make, alter, suspend, abrogate, or annihilate the law of the land." Whereupon he kissed the bottle. Various other toasts were given to testify the attachment of the meeting to the cause which Wedderburn had so nobly defended; such as—"The rights of electors!" "The law of the land!" "The immortal memory of Lord Chief Justice Holt!"—all introduced by speeches eulogising the new patriot's exertions and his sacrifices.\* It is said that Wilkes himself became a little jealous of this "North Briton;" for, though not much of a Wilkite, he would not like to have been superseded as the most notorious public man of the day. Wedderburn did begin to agitate in good earnest; and, while he was out of Parliament, went about making harangues, and supporting violent resolutions against the Government, particularly at a public meeting held in the city of York.<sup>†</sup>

The interval, however, was very short; and at the commencement of the next session he again took his seat in the House of Commons, having been returned for Bishops Castle by Lord Clive,<sup>‡</sup> who was thanked by George Grenville and others, for this proof of his regard for the Constitution.<sup>§</sup>

\* Lord Temple, giving an account of the dinner at the Thatched House, says:—"Every thing passed most miraculously well, and the whole meeting appeared to be like brothers united in one great constitutional cause."—*Chatham Correspondence*.

† "Mr. Wedderburn exerted himself as much, in the defence of Mr. Wilkes as he ever did in his condemnation; and, at length, to convince such as might not probably be persuaded that he was in earnest, he made a public tour throughout the several ridings, towns, and districts in the extensive county of York, to warn them of the dangers with which they and all the freeholders of Great Britain were threatened on account of the late unconstitutional corrupt decisions of the House of Commons in the affair of the Middlesex election. He did not hesitate to reprobate in all its parts the Court system, and he pursued the same line of conduct uniformly till the death of Mr. Grenville."—*Public Charac-*

*ters*, p. 68. "He subsequently supported the Administration through thick and thin in every measure but on the motion for rescinding the resolution on the Middlesex election—when he absented himself, or, as some say, divided against the minister."—*Ib.* 72.

‡ "Westcombe, 10th May, 1769.

"Sir,—I am sorry that any personal or party motives should have deprived you of that seat in parliament which you filled with so much honour and unbiassed ability; if another seat be acceptable I have one at your service, in which you will at all times be at liberty to exert your talents upon your own principles.—I am, with sentiments of the greatest esteem, Sir, your most obedient humble servant.

"CLIVE.

"To Alexr. Wedderburn, Esq." \*

§ The following is a copy of George Grenville's letter to Lord Clive thanking him for

Now came on one of the most tremendous party struggles recorded in our annals. Lord Chatham, whose public career was considered as having been terminated by the loss of his intellects, re-appeared with all his pristine vigour, animated by the most furious rage against the disqualification of Wilkes; Lord Camden was deprived of the Great Seal for supporting him; and Charles Yorke was supposed to have laid violent hands upon himself three days after he was prevailed upon to receive it. Wedderburn must have cast a longing glance at the bauble, and, if it had been then offered to him, I am afraid he would not have rejected it, nor shown any remorse for his perfidy. But in the absence of an overture from the Court he deemed it his best course to continue to act with apparent zeal on the popular side.

Accordingly, in the Committee on "the State of the Nation," Mr. Dowdswell having moved a resolution (which he said he was to follow up by some others, to be afterwards stated), "That in matters of elections this House is bound to judge according to the law of the land;" and Lord North, after complaining that the other proposed resolutions were not brought forward at the same time, having moved that the motion be amended by adding these words, "and that the judgment of this House, declaring John Wilkes, Esquire, disqualified to sit in this present Parliament, was agreeable to the said law of the land, and fully authorised by the law and custom of Parliament," — "Mr. Wedderburn observed, that Lord North, with respect to his motion, acted like an old woman, who being examined as a witness, and asked her name, said, 'she would not tell it till she knew what questions were to follow:' he said he was glad the noble lord had nothing to object to the question, except that it was

offering to return Wedderburn for Bishops Castle:—

"Bolton Street, May 10, 1769.

"MY DEAR LORD,

"I have just this moment received the honour of your letter while Mr. Wedderburn was with me, to whom I have executed your commission. He is extremely sensible of this great mark of your Lordship's esteem and regard, and still more so of the honourable manner in which you have made the proposition for rechoosing him into Parliament. . . . If anything could give me a higher opinion of your character and conduct than that which I entertained before, it

would be your behaviour on this occasion."

Lord Temple, writing a few days after to his cousin, Lord Chatham, says, "A seat is already found and fixed for Wedderburn; but it is a great secret, and more offers than one have been made to him. Beckford and Trecothick proposed to him the freedom of the city in a gold box, and Lord George Cavendish, at the dinner at the Thatched House Tavern, toasted 'The Steward of the Chiltern Hundreds.'"—*Chatham Correspondence*.

A vacancy was created in Bishops Castle by the retirement of his Lordship's cousin, William Clive. 32 Com. Journ. 457.—*Gentleman's Magazine*, vol. xl. p. 47.

unnecessary; but he hoped that objections of another kind against the amendment were so manifest, as that no gentleman would join him in voting for it." This is the whole report of a speech that lasted above two hours, and we are lucky in having a little inkling of the points which he made; for sometimes we have only such general notices as the following of his most brilliant efforts:—"Mr. Wedderburn was excessively great this evening;" or, "The Solicitor General Wedderburn, in answer to Mr. Fox, defended the Administration in a fine vein of oratory." Lord North's amendment was carried by a majority of 224 to 180. At the risk of commitment to Newgate for breach of privilege, a list of the minority was printed and circulated, with Wedderburn's name in it, along with those of Barré, Burke, George Grenville, Lord George Sackville, and Lord John Cavendish.<sup>b</sup>

On a subsequent day, in the debate on Mr. Dowdswell's motion, "That by the law of the land, and the known law and usage of Parliament, no person eligible by common right can be incapacitated by vote or resolution of this House, but by Act of Parliament only," Wedderburn again spoke immediately after Lord North, attacking him very vehemently, and saying, "When this committee sat last, the conclusion that it came to concerning this question was in every respect strange and unnatural. The resolution now moved for will put all right. The noble lord asks, 'Will the House of Commons censure and disgrace itself?' Let me ask, in my turn, Will the House of Commons compose the minds of the people? will they recover the good opinion and confidence of those whom some gentlemen have been pleased to call the *rabble*, the *base-born*, the *scum of the earth*?"<sup>c</sup>

The report of his speech in the next debate on this subject I suspect was prepared by himself, and it is certainly calculated to give us a high opinion of his powers. The city of London had presented to the King an address, framed in very violent language, complaining of the proceedings of the House of Commons against Mr. Wilkes, and had received in answer a very sharp rebuke from His Majesty. A motion

<sup>b</sup> 16 Parl. Hist. 797.

<sup>c</sup> This is all that is set down for him in the report, and he is fortunate in being so noticed; for the wearied reporter goes on to say, "Sir W. Blackstone opposed the resolution, and was answered by Mr. Edmund

Burke. Mr. Charles Fox spoke in answer to Mr. Burke; but the topic has been so exhausted, that their speeches would neither contain any thing new, nor exhibit any thing in a new light."—16 Parl. Hist. 603.

was now made by a supporter of the Government for a copy of the address, with a view to institute proceedings against the citizens of London for a breach of privilege. This was strongly resisted by the Opposition leaders, who severely animadverted on the answer which the King had been advised to return to the address. Lord North having thereupon avowed that he was the adviser of the answer, and responsible for it, and declared that nothing should deter him from inquiry into the conduct of others where, as in this case, inquiry appeared of utility to the public, Mr. Wedderburn is said to have spoken as follows :—

“ Sir, if the issue of this debate regarded the responsibility<sup>d</sup> of the minister only, and was not of infinite importance to the kingdom at large, I should be one of the first to approve the candour of the noble lord who spoke last, and to own, that if he does not possess more wisdom than his predecessor, he at least shows more manliness and more probity in publicly acknowledging himself the adviser of the answer to the City remonstrance. But, Sir, it is not the responsibility of a minister which is now under consideration, but the inexpediency, the injustice, of censuring any part of the people for the exercise of a right which is warranted by the Constitution, which is supported by the dictates of reason, the authority of precedents, and the positive declaration of our laws. Our sole consideration is, simply, whether the people have, or have not, a right to petition; whether they are, or are not, legally authorised to lay their grievances before the throne, whenever they imagine themselves oppressed; and whether all prosecution for the exercise of that right is not prohibited by the Bill of Rights? Sir, the loudest advocate for the motion before the House will not pretend to deny the right of the people to petition, nor pretend to deny that they are wholly exempted from judicial censure on that account. Among the many blessings arising to the kingdom from the glorious Revolution, the privilege of complaining to the throne without the danger of punishment is one of the noblest. The people, in this respect, are the sole judges of the necessity for petitioning: it is as much a part of their prerogative, if I may so express myself, as it is a part of the royal prerogative to assemble parliaments, or to exercise any other power warranted by the Constitution. I must ask, then, with what shadow of propriety, with what colour of reason, we arrogate a liberty of examining their proceedings? How do we presume to fly in the face of the law, and confidently assert that they shall be punished for what the law says we shall not examine? If this is our idea of reason, our conception of justice, let us, for the future, be distinguished for inconsistency and violence. Even admitting, Sir, that on the present occasion the people have been mistaken, that they have erred, that they have, in reality, no

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<sup>d</sup> Wedderburn had not revised the “proof,” for this word is misprinted “ostensibility”



grievances to complain of, and that the manner of their remonstrance is as disrespectful as the matter of it is unjust; still, Sir, as the law positively pronounces on their right of petitioning, and their consequent exemption from prosecution, we are precluded from every inquiry into their conduct. They may be indiscreet, they may be warm, they may be turbulent: but let not us be rash, violent, and arbitrary. Let us not, while we are so nicely attentive to the errors of others, rush into palpable illegalities ourselves. Our power is great, but the power of the law is much greater. When you have got a copy of the petition, the petitioners may defy you.—For this reason I oppose the motion. I cannot consent that our love for equity should make us inequitable, that our regard for peace should lead us to spread the flames of discord through the land, or that our solicitude for the safety of the Constitution shall vindicate our stabbing that Constitution to the heart. Remember, Sir, that one of the capital blemishes of James II.'s reign was punishing the seven bishops for petitioning. Similar causes must always be productive of similar effects. We are yet safe; it is yet in possibility to retrieve all; whereas if we proceed from violence to violence, if we go on exercising our power against the sense of our conviction, and sacrifice our honesty to gratify the malignity of our resentment, the consequences must be dreadful in the end. The people may be injured for a time, but they will prefer annihilation to chains: universal anarchy must ensue, and, as the poet forcibly expresses,

*"Darkness be the burier of the dead!"*<sup>e</sup>

On Lord North's motion for a partial repeal of the American Revenue Act of 1767, imposing the tea duty, Wedderburn made a violent harangue against the Colonial policy of the Government.

"If," said he, "this is considered as a measure calculated to pacify America, it is an extremely weak and idle one: it is one step further in that system of contradiction which has obtained with regard to the colonies from 1766 to the present day. After all the time that has elapsed no plan has been adopted, no system thought of; and the session is to pass over with only a further instance of contradiction. I heard with infinite concern the observation of the gallant General (Conway), 'that to tax America is impolitic and unjust, but that it was one of the latent powers vested in the government.' What, Sir, declare that you have a right, and at the same time declare that the exercise of it would be impolitic and unjust!"<sup>f</sup>

Wedderburn was equally truculent in supporting Mr. Burke's motion for an inquiry into the causes of the late disturbances in America. He said,— "It is the continued system of contradiction and absurdity in government that has

<sup>e</sup> 16 Parl. Hist. 881.

<sup>f</sup> Cavendish Deb. 498.

produced the melancholy situation in which we now stand. But, says the noble lord, 'Look forward and see what we shall next do for America.' This House must interfere and provide for the future government of America, or America is lost for ever. How long are we to wait? When nothing offers itself but despair; when nothing is offered to us but professions, both in the speech from the throne and in the language, or rather in the significant silence, of Ministers, Parliament must trace the evil to its source, and if you find matter for punishment, you must punish."

Lord North in answer said,— "This speech might raise the reputation of the learned gentleman as an orator, but would not add to his character for veracity."<sup>s</sup>

When Wedderburn next addressed the House he acquired applause by showing his familiarity with Shakspeare. Indeed in all my reading and hearing of parliamentary debates, I do not recollect a more felicitous quotation. George Grenville, leader of the Opposition, having brought forward his famous bill for the trial of controverted elections,<sup>h</sup> it was opposed by Lord North and the Government,—and De Grey, the Attorney General, made a long speech against its dangerous innovations, thus concluding:—"In short, Sir, although there no doubt have hitherto been irregularities and even abuses while the House retained to itself its constitutional power of deciding election petitions, it is better to endure the evils of which we know the extent, than, in a sudden start of disgust and humoursome passion, 'fly to others which we know not of.'"

Wedderburn, rising immediately after, continued Hamlet's soliloquy:—

"And thus the native hue of resolution  
Is sicklied o'er with the pale cast of thought;  
And enterprises of great pith and moment,  
With this regard, their currents turn awry,  
And loss the name of action."

"The opposition to this bill by the Government," he added, "I consider most disgraceful. They do not deny the evils of the existing system to be as great as we have described them, and they offer no other remedy. In resisting it they make no distinct objection to it; their only resource is blindly to

<sup>s</sup> 2 Cavendish Deb. 28.

<sup>h</sup> Wedderburn had been directed by the House, along with George Grenville, "to pre-

pare and bring in the same" (32 Com. Journ. 760); but he had only revised it, and corrected some of the legal phraseology.

address themselves to our fears. They acknowledge the danger, they admit that we approach the brink of the precipice, and they would rather see us dashed to pieces among rocks or swallowed in the cataract below, than that we should turn into a new path for safety. Wherever reason, justice, honour point the way, there the most ungenerous among them, like my learned and honourable friend the Attorney General, set up bugbears, and phantoms, and chimeras dire. They would frighten us with dangers, not only 'which we know not of,' but which they themselves cannot describe or imagine." The report goes on to say, that "he then turned to Lord North and his friends, and in a strain of irony apologised for their neglect of the business of legislation, as they were devoting themselves day and night to their executive functions, in conducting our foreign and colonial policy, although it had unhappily turned out, in spite of their statesmanlike efforts, that France had been allowed treacherously to add Corsica to her dominions, and that our transatlantic colonies were on the verge of rebellion."<sup>i</sup> The bill was carried by a majority of 185 to 123, and was long celebrated as an absolute piece of perfection, but afterwards fell almost into as great disrepute as the ancient practice of deciding elections in the House by a ministerial majority.

Wedderburn, before the close of the session, had an opportunity, which he very zealously improved, of attacking the whole system which had been pursued for some years with respect to America. This was upon Mr. Burke's first great attempt to save the empire from dismemberment, by bringing forward the celebrated Resolutions, explaining the causes of the discontents in the colonies, which began to be so alarming, and the measures of conciliation which ought to be resorted to. He rose late in the debate, and we have only an imperfect report of his speech; but it seems to have been very elaborate and effective. Forgetting the changeable propensity which he himself had already exhibited, and not anticipating the sudden wheel which he himself was destined very speedily to exhibit, he daringly began with taunting Lord Clare for having illustrated the ease with which great statesmen might reconcile inconsistencies between opinion and conduct, by warmly supporting the American Stamp Act,—then taking office under a minister who repealed it,—and now again standing up for the right to tax America. He asserted

that such had been the folly of late measures respecting America, that they had united all thinking and honest men of all parties in condemning them. He went on to declare, that by these measures the American colonies were no longer part of the British dominions—more than Calais, which was once a British province. He concluded by inveighing against the appointment of a third Secretary of State for the Colonies, insisting that the minister placed at the head of that department was wholly unfit for it, and that the Resolutions ought to be supported, as they must lead to his removal.

The reporter says, that “Lord North followed, and took up some expressions which Mr. Wedderburn had used in high terms, and returned a flat contradiction to them: his Lordship then came to the ground of answering the several matters of charge against the Ministry, article by article, and said as much as could be for them.”<sup>k</sup> This was the last of a series of personal conflicts between the minister and the aspiring Opposition lawyer. They probably soon after came to a secret understanding that they were as quickly as possible to be friends; but it was necessary to wait for an opening in the law before this object could be accomplished, and the year 1770 expired without any legal dignity dying or resigning.

Meanwhile, a new session of Parliament began in November, and Wedderburn still professed to belong to the Opposition; but he confined himself in debate to the discussion of legal questions. A motion being made to take away the power of the Attorney General to file *ex-officio* informations, — that he might still appear to be on the popular side he supported it, although he must have been well aware that the same power belonged to the public prosecutor in his own country with respect to all offences whatsoever, and that the system had there worked most beneficially. Nevertheless, he found it convenient to say,—

“It cannot be denied, that the proposed alteration will be attended with possible and even probable advantages, and the possibility, much more the probability, of advantage is a sufficient ground for change. If our ancestors had been so tenacious of old institutions, what would have become of our liberties? When reason and the principles of the Constitution dictate reformation, must we be deterred by mere names? The unlimited and discretionary power of prosecuting is not to be endured in a free state. A grand jury examines witnesses and rejects

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<sup>k</sup> 16 Parl. Hist. 1009.

the bill, if it seems to be founded on injustice, malice, or oppression. The same process holds where an information is granted in the King's Bench. The party accused is there heard, and if he can produce any extenuating circumstances he is never brought to trial. These things are not done in a corner; and judges, from a view to their own character, act with gravity and circumspection. Why is not the Attorney General's power circumscribed within the same limits? Need I say more to prove that this power ought to be abolished or modified?"<sup>m</sup>

But Wedderburn's Opposition career in the House of Commons was now drawing to a close. The last oration delivered by him, standing on the left hand of the Speaker, was in the debate on Serjeant Glyn's motion respecting the administration of criminal justice and Lord Mansfield's direction to juries on the trials for the publication of Junius's Letters. He thus boldly began:—

"Sir, it is with reluctance I trouble the House at so late an hour of the night. But the importance of the question will plead my excuse. My silence might be branded with the odious imputation of *trimming*; and I would have it understood, that when the Constitution is in danger I always take a decided part, and scorn the mean subterfuge of an invidious neutrality. Sir, it is not that I do not perceive the difficulties with which I am surrounded. I see the narrow path on which I stand, and the rocks and precipices which threaten on either side. If I lean to the inquiry, I shall be termed a child of faction: if I incline to the opposite side, I shall be denounced as a slave to the Court. In this dilemma how shall I act? As every honest man ought. Regardless of consequences, I will follow the dictates of conscience; and if I cannot satisfy others, at least satisfy my own mind." He then gives it as his opinion that, according to precedent, juries are confined to the question, whether the alleged libel was published by the defendant, but that by a new law the power of deciding upon the general guilt or innocence of the defendant ought to be conferred upon them. "Sir," said he, "while matters continue on their present footing, while judges think the intention a matter of law cognizable only by them, and juries imagine this to be an encroachment on their jurisdiction, they will be eternally at variance. A constant struggle for superiority will subsist, and justice, being placed in the middle between them, will be mangled and torn in pieces. Acted upon by two forces in opposite directions, it will share the fate of criminals whose limbs are tied to the tails of wild horses. Juries thinking law and liberty to be at stake, and judges standing up for their own authority, and what they consider the cause of order, neither will give up the contest till the land become one scene of anarchy and misrule. Indeed, who does not see that this is already the case? The most audacious libellers cannot be convicted. Secure in the

opposition of juries, they laugh at all the terrors of *ex officio* informations. The Attorney General with all his power is despised. Like an old worn-out scarecrow in a field, his head is made a roosting-place, or something worse, by these obscene birds. It is time for us to reconcile the practice of the law with the principles of the Constitution. Juries seem to me not only the proper but the sole judges of the intention—of the innocence or malice of a libel, because it is really and essentially a matter of fact and not of law. It depends solely on the opinion which is entertained of the libel by the public. What passed in the Roman Senate for polite raillery, would in this House be deemed a gross affront, and perhaps lead to bloodshed. What Roman virtue called ‘Attic eloquence,’ modern honour would construe ‘rude Billingsgate.’ Libel is founded entirely on public opinion. There is no other standard by which it can be measured or ascertained. Who, then, so proper as the people to determine the point? If juries are to be confined to the single fact of publication, instead of leaving them only this shadow of power, would it not be better to annihilate them entirely? What then will become of our envied Constitution? This main prop being removed, the whole fabric will tumble to the ground, and crush us under its disjointed fragments. Sir, in all our legal system, there is nothing that can boast a preference to the institution of juries. The plan is great, noble, and comprehensive, and well worthy of its royal founder. Judges may err, judges may be corrupt. Their minds may be warped by interest, passion, and prejudice. But a jury is not liable to the same misleading influences. Twelve men of the vicinage, chosen as they are, can have no bias—no motive to show favour or malice to either party. They must find a verdict according to evidence and conscience. Ask a foreigner what are his ideas of English liberty? He will tell you, with uplifted hands and a look of admiration, that it consists in the right which every Englishman has of being tried by his equals. But where is the propriety of any panegyric, if the jury are only to try the most insignificant part of a cause, and leave the rest to the judge, who is not the equal of the accused? Were the proposed scheme adopted, the present ferment would subside, and juries would spontaneously give a check to the licentiousness of the press. I think no restrictions necessary. I am far from adopting the creed of my honourable and learned friend the Attorney General, ‘that if we were less learned we should be better men.’ I hold, on the contrary, that the diffusion of learning, by the liberty of the press, is necessary to public liberty and public morality. Like all the great and powerful nations that ever existed, we are tending towards effeminacy. What then would become of us without the press? Not to speak of the rational and elegant amusements which it affords, we owe to it all the spirit which remains in the nation. Were an *imprimatur* clapped upon it, and a licenser appointed, we should soon come to the last stage of barbarism. We should be worse than Turks and infidels,—the setting of the sun of science being much more gloomy and dismal than the dark hour which precedes its rise. Let us then guard the liberty of the press as watchfully as the dragon did the Hesperian

fruit. Next to the privileges of this House and the rights of juries, it is the main prop of the Constitution. Nay, without it I fear the other two would prove very ineffectual. Though it be sometimes attended with inconveniences, would you abolish it? According to this reasoning, what would become of the greatest blessings of society? None of them come pure and unmix'd. Religion itself is apt to degenerate into enthusiasm or superstition. Must we, therefore, exterminate Christianity? God forbid! Why, then, be so severe on the liberty of the press? If it poisons the minds of the people, it likewise administers an antidote. The same waggons, the same flies and stages, that carry down into the country the lies of faction, carry down also the counter-statements of the Ministry. If any one is bit by the tarantula of the Opposition, he is cured by the music of the Court."

There is a tradition that Wedderburn had now (in parliamentary slang) "dropped down to St. Helen's, lying there at single anchor;" or, in other words,—that he sat in the neutral row, below the gangway, on the Opposition side of the House, ready to go over to the Treasury bench. His patriotism had all along been regarded with suspicion. "In vain," wrote Junius to the Duke of Grafton, "would he have looked round him for another character so consummate as yours:—Lord Mansfield shrinks from his principles; his ideas of government, perhaps, go further than your own, but his heart disgraces the theory of his understanding: Charles Fox is yet in blossom; and as for Wedderburn, there is something about him which even treachery cannot trust." This great Unknown, on another occasion, pretended to have fully appreciated the character of our political *Condottiere*:—"Let us profit by the assistance of such men while they are with us; and place them, if it be possible, in the post of danger, to prevent desertion. The wary Wedderburn, the pompous Suffolk, never threw away the scabbard, nor ever went upon a forlorn hope: they always treated the King's servants as men with whom, some time or another, they might possibly be in friendship."

Wedderburn was now more desirous of taking place under the present Government on account of the death of George Grenville, with whom he would not enter into any positive engagement, but whose return to power he had considered not improbable. Lord North was not only a favourite with the King, but was gaining the confidence of the House of

<sup>a</sup> 16 Parl. Hist. 1294. Lord Chatham, in reference to this speech, wrote to Calcraft:—"Mr. Wedderburn, I hear, did, upon the

matter of juries' right to judge, speak openly and like a man. I shall ever truly honour him."—*Chat. Cor.* iv. 46.

Commons, and of the nation ; and those who should continue to stand out against the usurpation of the House of Commons in disqualifying Mr. Wilkes, and against the injustice of England in taxing America, seemed doomed to long years of hopeless exile from the Treasury bench.

Before making any direct overtures to the Government, he sounded the inclinations of the patron of the borough which he represented, and was greatly comforted by receiving from him the following answer, which must be allowed to be very creditable to the writer :—

“DEAR SIR,

“Bath, 18th Nov. 1770.

“If the receipt of your very obliging and confidential letter had not roused me, I doubt much whether I could have prevailed upon myself to put pen to paper, though I feel something within that tells me I shall at last overcome a disorder so very distressing to the mind and so degrading to human nature: Either the air or water of Bath agrees with me better than any place I have yet tried ; yet still I am afraid a journey abroad must be undertaken before I can attain a perfect recovery of my health.

“Mr. Greuville’s death, though long expected, affected me very deeply. Gratitude first bound me to him ; afterwards, a more intimate connection gave me an opportunity of admiring his abilities and respecting his worth and integrity. The dissolution of our valuable friend has shipwrecked our hopes and expectations for the present : and my indisposition has not only made me indifferent to what passes in Parliament, but to the world in general. But if I can think for myself in such a situation, I wish to support that independence which will be approved of by my friends and by the public. My sentiments coincide entirely with yours in the present critical situation of affairs.

“Your delicacy towards me serves only to convince me of the propriety of my conduct in leaving you the absolute master of yourself in Parliament, subject to no control whatever but that of your own judgment ; and I am happy in this opportunity of giving under my hand, what I have declared on all occasions by word of mouth.

“Your great and uncommon abilities must, sooner or later, conduct you to the first posts in this kingdom, and you may be assured no man on earth wishes more to see your honour and your independency firmly established in this kingdom than,

“Dear Sir,

“Your affectionate friend and obliged servant,

“CLIVE.”

Notwithstanding the general suspicion of Wedderburn’s lubricity, so high at this time was his reputation for ability,



and so valuable were his services considered to the party he should support, that while Lord North was looking for a favourable opportunity to enlist him in the Government ranks, Lord Chatham thought it worth while to make an effort to keep him true to the Liberal side, and with this view (knowing the man) addressed himself to his interest, and tried to do a job for him in the City. Eyre, the recorder, had given mortal offence by refusing to read the famous "Remonstrance" to the King, or to attend at St. James's when it was presented.

The Court of Common Council thereupon passed resolutions—That Mr. Recorder Eyre be no more employed in any City causes; that Serjeant Glyn (who had gained such applause in the Middlesex election) should be retained as their leading counsel; and that the freedom of the City should be presented in a gold box to Mr. Dunning (who when Solicitor-General had defended in Parliament the right to petition and remonstrate). Lord Chatham wrote a letter, to be made public, in which, after praising these resolutions, he goes on to suggest that something should likewise be done for the patriotic Scot, who, notwithstanding his country, had made such sacrifices for liberty:—"I could wish Mr. Wedderburn's merit to the cause of the Constitution not to be forgot. I think it is a species of injustice, if, on some proper occasion, it be not intended to show him that his spirited, disinterested conduct is felt as it deserves. I fear some mixture of narrow ideas and local antipathy. To speak plain, nothing is more contrary to the public good than to retain the smallest grain of alienation or suspicion towards a Scotchman, renouncing and thoroughly resisting Scotch influences and despotism." <sup>P</sup>

The freedom of the City was actually voted to Wedderburn, but as the scheme of having him appointed to a City law-office failed, and he was evidently cooling towards the popular

<sup>P</sup> Chatham Correspondence.

To show the violence of the prejudice in London at this time against Scotsmen, Mr. Wedderburn used to relate the following anecdote:—"John Home, elated by the success of DOUGLAS, had written another tragedy, called RIVINE, the name of the heroine being taken from a fragment of Ossian. Garrick, afraid that there could be no chance for the combination of a Scotch writer and a Scotch subject, changed the title of the piece to THE FATAL DISCOVERY, and got a young English gentleman from Oxford to father it. Under

this disguise it drew crowded houses;—whereupon the real author incautiously discovered himself. It could not now be damned, but after languishing a few nights it was withdrawn." This is a good pendant to the authentic story of Sir John Owen, clad in buckskin breeches and top-boots, being rapturously applauded in the House of Commons while he was supposed to be a country gentleman, but being coughed down when in the middle of his speech it was discovered that he was a lawyer.

cause, Lord Chatham thought that he might fix the waverer by personal attentions,—which many would then have preferred to place and power,—and proposed to call upon him,—that they might together concert measures for the public good. This proposal was most embarrassing; it could not be directly declined without a discovery that a very different negotiation was pending; and as this negotiation might break off, it was essential for some time longer to have patriotism for a resource; yet the news of an interview with Lord Chatham, which would have been immediately known over all the clubs in London, might have caused his absolute proscription at St. James's.

The communication with the old patriot was carried on through his bosom friend, Calcraft. To him Wedderburn wrote a very artful letter, expressing his deep sense of the honour to be conferred upon him, and his eager impatience for the proposed meeting; but suggesting some difficulties as to time and place, and proposing that “on the first fitting opportunity he should wait upon the illustrious statesman who had vouchsafed to notice his exertions for the public good.” Lord Chatham wrote back the following letter, to be read by Calcraft to Wedderburn: “If you will be so good as to answer Mr. Wedderburn’s letter, as having communicated it to me, and if you please to express in my name the sense I have of his most obliging manner of meeting my earnest wishes to have an opportunity of seeing him and exchanging sentiments, as far as he will give leave, with a person for whose handsome conduct and great abilities I have a very real and high esteem.”<sup>a</sup> On various pretences the interview was postponed, and Lord Chatham and his friends plainly saw that Wedderburn was forever lost to them. Lord Camden wrote to his great leader, “The opinion is universal that Wedderburn is in the act of negotiating, or open to it.” These rumours were much strengthened by the news that De Grey, the Attorney-General, was immediately to be made Chief Justice of the Common Pleas, and that Thurlow, Solicitor-General, was to become Attorney,—so that the Solicitor-Generalship would be vacant. Parliament had been adjourned for the Christmas holidays on the 20th of December to the 25th of January. On this very day the London Gazette announced that “Alexander Wedderburn, Esq., was appointed Solicitor-General to his Majesty.”

A.D. 1771.

<sup>a</sup> Chatham Correspondence.

We are not informed of any particulars of the negotiation with Lord North, and it was probably not attended with much difficulty on either side. Great was the public indignation when the result was known ; and this must be confessed to be one of the most flagrant cases of *ratting* recorded in our party annals. There not only was no change in the Government, but there was no change of circumstances or of policy,—and a solitary patriot was to cross the floor of the House of Commons that he might support the measures which he had been so loudly condemning. His own saying was now in everybody's mouth : “ Bit by the tarantula of Opposition, he is cured by the music of the Court.” Perhaps there was nothing more cutting than Lord Camden's remark in sending the intelligence to Lord Chatham : “ I am not surprised, but grieved.”<sup>r</sup>

<sup>r</sup> Chatham Correspondence, iv. 72.

END OF VOL. VII.















